



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **11<sup>TH</sup> DAY OF FEBRUARY, 2015** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fritz, Novick and Saltzman, 4.

Mayor Hales arrived at 9:35 a.m.

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

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

<b>COMMUNICATIONS</b>		<b>Disposition:</b>
<b>149</b>	Request of David Yasnoff to address Council regarding ride sharing (Communication)	<b>PLACED ON FILE</b>
<b>150</b>	Request of Mike Gwaltney, Maddie Mosscrop and Elizabeth Keeney to address Council regarding Oregon Episcopal School's Government, Politics and Citizenship course; a student policy proposal for municipalities (Communication)	<b>PLACED ON FILE</b>
<b>151</b>	Request of Zach Solomon, Rowan Berridge and Nut Cheepsongsuk to address Council regarding Oregon Episcopal School's Government, Politics and Citizenship course; a student policy proposal for municipalities (Communication)	<b>PLACED ON FILE</b>
<b>152</b>	Request of Meredith Loy, Teddy Morrissette and Jackson Thomas to address Council regarding Oregon Episcopal School's Government, Politics and Citizenship course; a student policy proposal for municipalities (Communication)	<b>PLACED ON FILE</b>
<b>153</b>	Request of Peter Graham and Chelsea Choi to address Council regarding Oregon Episcopal School's Government, Politics and Citizenship course; a student policy proposal for municipalities (Communication)	<b>PLACED ON FILE</b>
<b>TIMES CERTAIN</b>		

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<b>154</b>	<b>TIME CERTAIN: 9:30 AM</b> – Appoint Julie Ramos, Kiosha Ford, Angelo Turner, Julie Falk, Vanessa Yarie and Kristin Malone to the Citizen Review Committee advisory board to the Independent Police Review, a division of the City Auditor’s Office (Resolution introduced by Auditor Hull Caballero) 15 minutes requested (Y-4)	<b>37110</b>
<b>155</b>	<b>TIME CERTAIN: 10:00 AM</b> – Accept \$1,000,000 from East Multnomah Soil and Water Conservation District pursuant to an Intergovernmental Agreement dedicating 37 acres of the Colwood Property as natural area (Ordinance introduced by Commissioner Fritz) 30 minutes requested	<b>PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b>
<b>CONSENT AGENDA – NO DISCUSSION</b>		
<b>Mayor Charlie Hales</b>		
<b>156</b>	Appoint Laura James and reappoint Gordon Feighner and John Gibbon to the Portland Utility Review Board for terms to expire January 31, 2017 (Report) (Y-4)	<b>CONFIRMED</b>
<b>*157</b>	Authorize a grant agreement with Portland Opportunities Industrialization Center Inc., not to exceed amount of \$111,470 for two street level gang outreach workers to provide intervention services while principally deployed on the TriMet system (Ordinance) (Y-4)	<b>187006</b>
<b>City Attorney</b>		
<b>*158</b>	Amend contract with Black Helterline LLP for outside counsel for immigration related work (Ordinance; amend Contract No. 38066) (Y-4)	<b>187007</b>
<b>Office of Management and Finance</b>		
<b>*159</b>	Ratify a Letter of Agreement between the City on behalf of the Portland Police Bureau and the American Federation of State, County and Municipal Employees, Local 189 that authorizes Alternative Work Schedules, Overtime Pay Provisions and Work Schedule Adjustments for Employees in the Crime Prevention Program Administrator Classification (Ordinance) (Y-4)	<b>187008</b>
<b>Commissioner Dan Saltzman</b>		
<b>Position No. 3</b>		
<b>Portland Fire &amp; Rescue</b>		
<b>160</b>	Accept and appropriate a grant in the amount of \$17,850 from Oregon State Fire Marshal for hazardous materials response training (Ordinance)	<b>PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b>
<b>REGULAR AGENDA</b>		

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<b>Mayor Charlie Hales</b> <b>Office of Management and Finance</b>		
<b>161</b>	Accept bid of CivilWorks NW, Inc for the Union Pacific Railroad East Portland Connection Water Systems Adjustment for \$507,286 (Procurement Report - Bid No. 117421) <b>Motion to accept report:</b> Moved by Fritz and seconded by Saltzman. (Y-4)	<b>ACCEPTED PREPARE CONTRACT</b>
<b>Commissioner Nick Fish</b> <b>Position No. 2</b> <b>Bureau of Environmental Services</b>		
<b>162</b>	Authorize a contract with the lowest responsible bidder for construction of the Riverview Force Main Replacement Project No. E08866 for an estimated cost of \$1,900,000 (Ordinance) 10 minutes requested	<b>PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b>
<b>163</b>	Amend contract with HDR Engineering, Inc. for final design and construction support for the Columbia Boulevard Wastewater Treatment Plant Biogas Utilization Project No. E10033 for \$995,410 (Ordinance; amend Contract No. 30003218) 20 minutes requested	<b>PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b>
<b>Commissioner Steve Novick</b> <b>Position No. 4</b> <b>Bureau of Transportation</b>		
<b>*164</b>	Amend the Amended and Restated Intergovernmental Agreement with Multnomah County for the funding of the Sellwood Bridge Project (Ordinance; amend Contract No. 33000048) (Y-4)	<b>187009</b>
<b>City Auditor Mary Hull Caballero</b>		
<b>165</b>	Assess property for sidewalk repair for the Bureau of Maintenance (Second Reading Agenda 144; Y1085) (Y-4)	<b>187010 AS AMENDED</b>

At 11:00 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **11<sup>TH</sup> DAY OF FEBRUARY, 2015** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fritz, Novick and Saltzman, 4.

Commissioner Saltzman arrived at 2:11 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Lisa Gramp, Deputy City Attorney; and Greg Seamster, Sergeant at Arms.

The meeting recessed at 2:41 p.m. and reconvened at 2:49 p.m.

<p><b>166</b>      <b>TIME CERTAIN: 2:00 PM</b> – Accept report from Multnomah County Health Department on youth access and exposure to tobacco and e-cigarette products within Multnomah County (Report introduced by Mayor Hales) 45 minutes requested <b>Motion to accept report:</b> Moved by Fritz and seconded by Saltzman. (Y-4)</p>	<p><b>Disposition:</b></p> <p><b>ACCEPTED</b></p>
<p><b>167</b>      <b>TIME CERTAIN: 2:45 PM</b> – Presentation from the UNESCO, United Nations Educational, Scientific and Cultural Organization, Chair on Education for Sustainable Development (Presentation introduced by Mayor Hales and Commissioner Fritz) 30 minutes requested</p>	<p><b>PLACED ON FILE</b></p>
<p><b>168</b>      <b>TIME CERTAIN: 3:15 PM</b> – Expand Portland Parks &amp; Recreation smoke and tobacco-free policy to all City parks, natural areas, recreation areas and any other places where Portland Parks &amp; Recreation park rules apply (Ordinance introduced by Commissioner Fritz; amend Code Section 20.12.110) 1 hour requested</p>	<p><b>PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b></p>

At 4:20 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **12<sup>TH</sup> DAY OF FEBRUARY, 2015** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

Commissioner Saltzman left at 4:41 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ian Leitheiser, Deputy City Attorney; and Mike Cohen, Sergeant at Arms.

<p><b>S-169</b>      <b>TIME CERTAIN: 2:00 PM</b> – Amend Building Demolition Code to require notice and delay for all single family residential demolitions in areas with a residential Comprehensive Map Designation and make other changes (Previous Agenda 1331; Ordinance introduced by Commissioner Fritz; amend Code Chapter 24.55) 2 hours requested</p> <p><b>Motion to accept substitute:</b> Moved by Fish and seconded by Fritz. (Y-5)</p>	<p><b>Disposition:</b></p> <p><b>SUBSTITUTE PASSED TO SECOND READING FEBRUARY 18, 2015 AT 9:30 AM</b></p>
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At 5:43 p.m., Council adjourned.

**MARY HULL CABALLERO**  
Auditor of the City of Portland



By Karla Moore-Love  
Clerk of the Council

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

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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.

**FEBRUARY 11, 2015 9:30 AM**

**Novick:** City Council is now in session. Karla, please call the roll.

**Fritz:** Here. **Saltzman:** Here. **Novick:** Here.

**Novick:** Are there any consent items that have been pulled to the regular agenda?

**Moore-Love:** I have not had any pulls.

**Novick:** OK. So, proceed to communications.

**Item 149.**

**Item 150.**

**Mike Gwaltney:** Good morning, Mr. Mayor, members of Council.

**Hales:** Good morning.

**Gwaltney:** It's good to be here this morning. My name is Mike Gwaltney, I'm chair of the history department at Oregon Episcopal School. I have with me this morning 10 students from our 11th and 12th grade government, politics, and citizenship class; nine 12th graders and one 11th grader.

They're here as a result of a project in our course on engaged citizenship, and they have put together for you this morning a proposal that they think would be good for the City of Portland that's based on their reading and understanding of the law in the United States and as Portlanders; their ideas about what would be good policy. I should state that the policy they are going to talk to you about this morning has nothing to do with the position of our board of trustees or with the institution as a whole, but it's something that the students have developed in the course.

Our mission at OES is very clear: that we exist to help students realize their power for good as members of -- citizens of local and global communities. Just their being here this morning and your listening to them demonstrates that power for them, so I want to thank you for your attention to their conversation this morning.

Like you, I'm sure we believe as Margaret Mead did that a small group of thoughtful, committed citizens are the only thing that have ever changed the world, and that's what these students plan to be. So, I would like to ask if you could take items 150 to 153 sort of as whole for all the students.

**Hales:** Certainly.

**Gwaltney:** And I'd like to introduce Peter Graham to speak a little bit.

**Hales:** Thank you.

**Gwaltney:** Thank you.

**Hales:** Good morning.

**Peter Graham:** Good morning. Hello, everyone -- Mayor Hales, members of the Council, and the community. My name is Peter Graham. I would like to thank you all for your time and willingness to listen to us today.

We have come here to talk to you on the subject of gun control and actions you can take to help make this City safer. We know that Mayor Hales has shown support in the past for gun safety and has stated gun control as one of his priorities. Oregon U.S. Representative Earl Blumenauer has also made this one of his priorities, introducing his new report this week called Enough is Enough.

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We share the same understanding -- that guns are an ever-increasing risk within our community, and there should be limits on handling and sale of firearms. We are here with a hope to inspire action and to remind you that this is a problem that cannot be ignored any longer.

And so, we propose that you consider an ordinance that would ban sale and position of assault weapons and high capacity magazines within Portland. This issue that affects us personally, I pass it forward to Elizabeth Keeney and Madeline Mosscrop to talk about the perspectives as Portland youth.

**Elizabeth Keeney:** Thank you, peter. My name is Elizabeth Keeney. Mr. Mayor and members of this Council, Labraye Franklin, a young citizen was shot at Rosemary Anderson High School in December could have been one of us. We are here to represent her and the rest of Portland's young population.

We agree with Labraye that the state of gun violence in this country and increasingly in our City is messed up. We need you, the City Council, to look out for our safety. We support you in making what would be a bold but important change by enacting better gun control within our great City of Portland.

Due to the rising number of shootings over the past few years, there has been consistent pressure on this issue. According to the research firm Davis Hibbitts & Midghall, 56% of Oregonians are in favor of stricter gun control. My friends -- many of them women my age -- from different schools and backgrounds all over Portland are concerned with the state of gun violence in this country. We as young voters would like to support you, Mayor Hales, in your endeavors to make Portland a safer city. I would now like to introduce Maddie Mosscrop.

**Maddie Mosscrop:** Good morning. My name is Maddie Mosscrop. This issue is far more important to students than many adults realize. Many of my peers and close friends have brought this up and we have had interesting and engaging conversations. This is something that pertains to nearly all high schoolers in Oregon, as friends from Lincoln High School, Wilson High School, and Caitlin Gabel have all come forward to talk to us about how to make communities and schools feel safer.

Guns are scary. Shootings are scary. When I was in middle school, I don't ever remember doing a lockout drill, and even when we started I didn't really see why. But now my sister in sixth grade was working on where to hide. And the idea of someone -- a student -- attacking other students has become something that is actively taught to children, as if it is just a fact that we need to live with.

Passing an ordinance to ban assault weapons and high-capacity magazines will not make us safe immediately, but it is an important first step in enacting stricter gun control and limiting the most dangerous weapons in the city. Next I would like to introduce Rowan Berridge to introduce our proposal.

**Hales:** Thank you all. Good morning.

**Rowan Berridge:** Good morning. My name is Rowan Berridge. We have learned in our government, politics, and citizenship class that individual people and groups can make a difference when they are engaged in community concerns. As young people who are members of our community and future voters, we implore you to consider our proposal. We ask that Portland City Council adopt an ordinance that would prohibit the possession, sale, and manufacture of assault weapons and large capacity magazines. We believe that in a city as progressive as Portland, the public will demonstrate significant support for this common sense gun control proposal. With the passing of such an ordinance, Portland will become part of a growing group of cities that are committed to protecting its people, especially students. Cities across the country have begun to adopt similar if not almost

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identical proposals, and we strongly believe Portland should be among them. Now, Zach Solomon.

**Zach Solomon:** Hi, my name is Zach Solomon. You may be aware in the 2008 court decision in District of Columbia versus Heller, the Supreme Court did not uphold the D.C. laws prohibiting the ownership of handguns. While it seems like this would be a loss for control legislation, Supreme Court Justice Scalia wrote in his opinion that like most rights, the second amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.

In a second Heller decision a few years later, the Supreme Court again found the second amendment is not unlimited, and the court held that the D.C.'s strict ban on assault weapons and high-capacity magazines is in fact constitutional. The Heller II decision has been mirrored in other cases such as Friedman versus the City of Highland Park, in which it was declared that although the city of Highland Park's ordinance provided a marginal burden upon the second amendment right to self-defense, it does not severely burden the right.

The federal circuit courts have prescribed a sliding scale approach to levels of scrutiny within the second amendment. Any law that restricts second amendment rights requires an extremely strong public safety justification and a close fit between the government's means and ends. The fact that these other cities' laws have passed stringent qualifications bodes well for any challenges a similar law would face in court here. Therefore, we believe the sale, manufacture, or use of assault weapons and high-capacity magazines in Portland extends beyond the limits of defensive use.

Mayor Hales, when you stepped into office and outlined an agenda for your time as mayor, you mentioned the importance of gun safety for the citizens of Portland. As you said, assault weapons and high capacity magazines are dangerous weapons that can cause mass casualties in moments. Even more recently, in the wake of the Rosemary Anderson High School shooting, you mentioned that students know firsthand gun violence is a real threat and they know the importance of real action on the issue. Passing a citywide ban on the most dangerous offensive weapons would send a strong signal that the mayor and Portland City Council mean business on the issue. And to conclude, I'll pass to Peter Graham.

**Graham:** Thank you, Zach. I'd like to thank you all again for listening to our proposal. It is our belief that following through with this action will make our community safer and also have Portland join the other cities that have passed similar legislation at the forefront of growing gun safety movement. At this point, I'd like to invite any questions, comments, or concerns regarding our proposal that we may answer for you.

**Hales:** Let me start. First, I want to thank you for coming this morning with this well thought through, well-organized presentation. Several things on several levels, this is great.

First of all, we had a major hearing last week on another issue, and I think the average age in the room was probably triple what it is in your delegation this morning. So, it's great to have young politically-active people in this chamber, because sometimes we only hear from folks that are at the other end of the age spectrum. We especially appreciate you having the interest and civic instincts to be here and to be advocating on issues.

Secondly, you're talking to a City Council that agrees with you about these policy issues. And third, I think now there's a better chance for some movement on these issues than there has been in many areas, including the question of an outright ban on certain types of weapons. We need changes in state law to allow us to do that, but we think this legislature is moving in that direction. They've already introduced a bill that will eliminate the loopholes in background checks that has been a problem in this state. There's also

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another bill that's been introduced that will deal with people that have restraining orders for domestic violence cases not having access to guns.

So, we believe we've got a higher level of cooperation with the legislature, and we need that in order to have the authority to do some of the things that I think all of us here at this dais and that you think we need to do in Portland.

We are chaffing a bit under the restrictions we have in state law, but we think we have a legislature that will give us more room to move on these issues than we have had. So, I'd urge you to continue your advocacy not just here in the city but also with the state legislature about these issues. And in fact, we'll make sure to keep you posted about when those hearings will be held. I am going to go down and speak. Labraye Franklin and others who have been victims of gun violence in Portland I think Franklin also be able to go down and speak. It's really important that they hear from you on these issues and that the voices of youth in our state are heard on these issues in Salem.

So, keep the pressure on us, keep the pressure on the legislature, keep enlisting other students and people in the community to join the cause. I think you're right, there is a very large majority in our city that want to see stronger gun laws in our city -- and better yet, in our country -- but can start here where we can. Again, I just want to thank you and encourage you to keep working this issue that will take citizen pressure to get us where we need to be both here and in Salem. Other comments from Council members?

**Fritz:** Thank you, all of you, for the good work you've done and for coming in to testify on this important issue. Senator Ginny Burdick is leading the work in Salem, and I Oregon Episcopal School is in her district. So, she would be really happy to hear from you and as the Mayor said, encourage to you go down and testify there.

**Novick:** Thank you very much for your testimony. I just wanted to let you that know regulating guns is one of a number of things the state prohibits cities from doing. They prohibit us from regulating studded tires, they prohibit us from having local taxes on tobacco. So, if they just passed law saying we no longer preempt cities from doing anything, we could do tons of neat stuff.

**Hales:** Dan, any comments?

**Saltzman:** Thank you very much.

**Hales:** Yeah, thank you. As a matter of fact, I was just in the Rosewood Initiative last night talking to people in that neighborhood at the very eastern edge of the city. And since the first of the year in East Portland, there have been 79 shots fired. We've had six gang violence call-outs in East Portland. So, 79 bullets going somewhere in East Portland -- in that part of East Portland in just six weeks. It really tragically illustrates how serious this problem is. So, I really appreciate your focus on it and again, keep the pressure on us, keep the pressure on the legislature, enlist others on the cause and we'll get something done. Thank you very much. Let's hear it for students. We can break the rules of decorum. [applause] Thank you very much for being here.

Before we move on do we have other communications items, or did we cover them?

**Moore-Love:** I think we got them all.

**Hales:** OK, great. Before we move on, I want to welcome visitors here in the chamber from the Bordeaux metropolitan region, Jean-Baptiste Rigaudy, Helen Dorno [spelling?], who's the head of Greater Bordeaux Energy and Climate Action Plan, working obviously with her colleagues here; Vincent Delporte, who's Counselor for Ecology, Energy, and Climate Change for the Embassy of France in the United States. So, we have three professionals here from this very subject that we spend so much time thinking about in Portland, which is what can we do here about climate at the local level? What can we do to build a livable city? What can we do about energy and sustainability at the municipal level? I want to welcome them to chambers. And again, welcome to our guests from France. [applause]

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They are here of course under the assistance of First Stop Portland. Sarah is leading them all over the city to meet with a lot of folks in the City as well as with Metro. So, welcome. Let's move on to the consent calendar. I think we have no requests yet to remove items from the consent calendar, is that right?

**Moore-Love:** Correct.

**Hales:** Then a roll call on the consent calendar, please.

**Roll on consent agenda.**

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

**Item 154.**

**Hales:** Auditor Caballero, do you want to present? Others presenting? OK. Constantine, come on up. Good morning.

**Constantine Severe, Director, Independent Police Review, City Auditor's Office:**

Good morning, Mr. Mayor and members of Council. I am Constantine Severe, Director of the City Auditor's Independent Police Review. And today, we have six new CRC members we will be presenting to you.

The root of Portland's greatness as a city lies in its people, as demonstrated by the wonderful presentation earlier by the young folks from Oregon Episcopal School. I can think of no better example of this city's greatness than the individuals who serve on the Citizens Review Committee.

The CRC was created in 2001 along with IPR to serve as the City's representative in its police accountability system. The CRC serves a number of important roles, including hearing appeals of community members' complaints of officer misconduct, reviewing the policies and directives of the Portland Police Bureau and IPR, and hearing directly from the public on community concerns involving the Police Bureau.

The work of CRC has led to some substantial changes to the Portland Police Bureau over its life, including changes to the Portland Police Bureau's vehicle tow policy, the use of profanity by officers directed at community members, and the requirement that officers provide business cards to community members when they have contact with them. Long before Black Lives Matter, the CRC was working on the issue of having the Police Bureau treat individuals it comes in contact with in a manner that is equitable and represents the values of our city. The CRC also did a review that came out in 2010 on biased-based policing at the Portland Police Bureau.

What we ask of these community members that will serve on the CRC is not an easy task. The work of police accountability and civilian oversight of the Portland Police Bureau has made significant advancements in the last five years, but the duty of speaking truth to power is not one that is something that is ever easy, and our staff members at IPR and CRC members have the scars to prove it.

In the course of their work as CRC members, these members will examine some of the worst moments of community members and police officers' lives. All CRC members now serve on a rotating basis on police review boards. In force cases, they will review officer-involved shootings and in-custody deaths. These members will be subject to intense scrutiny; their judgment and their decisions will be challenged, but I believe these new members are up to it.

The City is very fortunate to have these six volunteers. Unlike in some other jurisdictions, CRC members are not paid for their service to the City. And frankly, it is something that we could not pay their fair value for. The new CRC members are amazingly diverse and a well-qualified group IPR was able to recruit through an extensive months-long effort led by our staff members and particularly by Irene Konev, who's sitting next to me.

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For the first time in the CRC's history with these new members coming on board, a majority will be under the age of 40. Five of the six new members are women. Traditionally, we've had a difficult task of attracting women on the serve on the CRC just due to our inequitable society, frankly. The fact that we have so many women and particularly young women who are willing to provide their service to the City I think speaks greatly to our values as a city and the efforts made by the Auditor's Office and frankly by the City has a whole.

I believe that the professional background and life experiences of these new members will enrich the CRC and benefit the CRC. And that is the end of my little spiel.

**Hales:** OK, anything else? Questions for the team? We have the biographies or the brief resumes of these folks in front of us, and you're right, they bring great qualifications to this work so thank you.

**Fritz:** All three here, congratulations and thanks to Irene Konev, who's been working on this for a very long time, and also to the team for finding such great recruits. We've never had this many women on the committee and I'm really appreciative of that.

**Severe:** Thank you.

**Hales:** Thank you all. Does anyone want to speak on this resolution?

**Moore-Love:** Yes, we have one person, Dan Handelman.

**Hales:** Good morning, Dan.

**Dan Handelman:** Mr. Mayor, I was wondering if I could have two extra minutes for the history of this issue.

**Hales:** Sure.

**Handelman:** Thank you very much. I'm Dan Handelman with Portland Copwatch. Good morning, Mayor and Commissioners.

The first thing we noticed about this agenda item is that the CRC is described as an advisory board to the Independent Police Review, even though CRC makes recommendations directly to the bureau, including findings about appealed misconduct cases, the council itself -- as they did just a few weeks ago -- and from time to time, the Auditor. I know you all -- I appreciate, Mayor, that you said you have the biographies. You also have the full applications, which are required by the ordinance to read --

**Hales:** Yes.

**Handelman:** And I hope you all have done that. One of the things that struck us also is that all six of these people being nominated for full three-year terms -- even though two of them are replacing people who resigned over the last six months and whose terms were not completed. IPR seems not to understand the need to stagger the turnover. Even though it's been consistently true since 2002 when CRC was created with an average of two a year term with an 11-member body, they should appointing three or four people to term out together. The term lapses of the four previously-longest serving members means the person with the longest tenure is now Roberta Rivera, who's been on the CRC for just one and a half years.

I also need to mention that the IPR held an orientation for these new members without public notification for the first time in several years. Especially with what I just mentioned, these folks -- I don't know if any of the old CRC members were there because we weren't invited, but they lack a historic viewpoint that can be given from people like me who attend many or all the meetings of the CRC. So, that was kind of disappointing.

As we go through this analysis, we're not -- as we say every time -- we're not trying to get personal about people, we're just trying to analyze things from an institutional standpoint and what might serve the community best. As you just heard, you now have a number of -- five women and one man coming on board, which means that the CRC for the first time ever will have seven female members and just four men.

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Only three of the six self-identify as Caucasian, meaning that there will now be six white people and five people of color on CRC. They do not ask about sexual orientation in their diversity check boxes.

In terms of background, it's also somewhat improved, although it seems odd that two of the new recruits both work for Legacy Health Systems. The last batch of nominees left the CRC with five current and former attorneys. That number is now down to four. So, there's a little bit more diversity in backgrounds.

Only one seems to have background, though, in police accountability issues per se, and it's Ms. Falk. It doesn't say it in her mini-biography, but she worked for the Police Assessment and Resource Center in Los Angeles which did the shootings and death-in-custody reviews before the OIR group did. She worked with them in 2003 when they were doing their first report on Portland. So, that's helpful. She also worked with the sheriff's deputies in Los Angeles to advocate for health care, which means she's worked with the police and group that oversees the police, and we always look for that balance in the candidates.

Mr. Angelo Turner lists that he worked on the vehicle stop advisory committee in San Diego. It's not a really clear what that was, but I'm assuming it wasn't to advocate for more vehicle stops.

**Hales:** Safe to assume in his case.

**Handelman:** One of the members lives in Oregon City, which I think the first time a CRC member has not been a resident of Portland, but I'm not sure because we don't have complete records on that.

Two of the members listed the director of Bradley Angle House as a reference, which could be a good thing if they're willing to place the prism of domestic violence on their consideration of police misconduct. We've talked a lot over the year and I think recently before Council about how police violence and domestic violence are similar with the community responding, I know him, he would never do that. So, we're hoping that can be a point of discussion for CRC.

IPR noted themselves they removed the question about the applicants' criminal history as a part of the Ban the Box effort. And we're not sure how that jived with the fact that the CRC members all have to undergo a criminal background check anyway, but it is a good step forward. It feels like there's not much evidence that we can see of other people other than Ms. Falk, who I mentioned, having both experiences working with the police and knowing what it's like to be on the other side of the baton.

We want to continue to remind Council that the DOJ agreement [indistinguishable] the five of 11 members, because a small faction could meet and make decisions without a need for a majority. We've been pushing for the CRC to adopt rules for the appropriate use of that quorum, and we'll continue to do that.

And of course, we have to keep reminding you about the weaknesses of our oversight system, which is that the IPR and CRC and Police Review Board should be much more integrated than they are now; that the Police Review Board hearings should be open to the public, or at least the people who are subjected to police conduct; people should be able to appeal the deadly force cases to CRC; IPR should have true power to compel officer testimony; and CRC should not have to accelerate their timeline for hearing appeals.

**Hales:** Thank you very much. Questions for Dan? Thank you. Sure, come on up.

**Steven Entwistle:** Good morning, Council, my name is Steven Entwistle. I represent healing man's sanctuary, individuals for justice, 100 million friends, and I'm a whistleblower for the less fortunate here in Portland. We agree with Dan Handelman's concerns and comments about the new IPR appointees. We would like to see some of those changes

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occur that were outlined because this is an important issue and it's just -- to me, it's an unfortunate, my own personal opinion, that we even have to have an IPR but we do under the circumstances. And that's all I have to say. Thank you.

**Hales:** Thank you. Anyone else? OK.

**Fritz:** Could we, Mayor, address the issue that Dan Handelman raised about the staggering of terms, since this would be the majority of the CRC term limiting out at the same time? That seems to be --

**Hales:** Yeah, Constantine, do you want to respond to that mechanical question about should we be staggering these terms differently in order to have more institutional memory?

**Constantine:** That's an issue that I think as a CRC -- one, we have a brand-new CRC, and it's a conversation the CRC needs to have along with the other issues of the DOJ agreement. So, I'm open to having that conversation. It does make sense to have them staggered because one, we've increased the CRC to 11 members now. It used to be that CRC would have two-year terms, now they have three-year terms. And I believe we have five current CRC members, four of whom are going to expire out I believe in 2017. So yeah, that's the conversation that we've been thinking about, as well.

**Hales:** So there's a couple ways to go about that. One would be to change -- I assume that's in code, but change that in code so that we change the appointment dates downstream for folks that are now being appointed. Another would be -- we may want to do both of these -- another would be that real life being what it is, some people on the CRC will resign early because people aren't able to -- they don't control future events and their career changes or they have family changes and otherwise can't stay for the full term. So, one opportunity might be to ad hoc change some effective dates when that happens, and those two strategies aren't mutually exclusive. I think we've faced this on a lot of our appointed boards and commissions, but I don't think it's the case with the Planning and Sustainability Commission where we do have a bunch staggered terms.

**Fritz:** Well, on the Planning and Sustainability Commission, if you're appointed to fill an unexpired term, you then get two additional terms after that.

**Hales:** Right. So, you might want to look at the language and how we deal with that in other boards and commissions.

**Fritz:** Right. So is this -- are we supposed to vote on this today?

**Hales:** This is a resolution, so, yes.

**Fritz:** I wonder if we could hold it over to give you a chance to look at that to see which members -- what the expiration date that these members would be filling would be, so we can appoint them to fill those terms, and they would be able to have two different terms after that.

**Severe:** The issue that we have is that we have a bunch of CRC members who are leaving and the CRC needs to be able to function. So, I think the question of expiration dates is something we can work together with the CRC, have them as a part of the conversation and figure that out while having these new members coming on board.

**Hales:** OK. But these members are potentially available to be reappointed after this, right?

**Fritz:** Maybe we should appoint them for one-year terms and that way we could get -- if the remaining four members that are ongoing are expiring in 2017, we appoint -- if it needs to be done today, we appoint these six to one-year terms that you can figure out what the expiration date of the terms that they're actually filling are. Or would it make any difference to hold it over to next week?

**Hales:** Sounds like you've got upcoming meetings, right?

**Severe:** Yeah, we have upcoming meetings, we have CRC members that we want to plug into work groups that the CRC has ongoing, and just a number of issues regarding police

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accountability and civilian oversight of the police are pretty large and we are down to five CRC members right now.

**Fritz:** Do you have a meeting scheduled before next week?

**Severe:** We do not have a meeting before next week.

**Fritz:** If we do it next week, we're good.

**Hales:** I'm not going resist that slavishly but again, it seems to me that when we really want this to kick is in on re-appointment for a second term, not necessarily on their first term, right?

**Fritz:** But the point that Mr. Handelman made is that six people will be expiring at the same time.

**Hales:** Right. But if at that point some of them leave, some of them get reappointed to one or two-year terms, and some appointed to three-year terms, then we've solved the problem. So again, I hope -- one, I'm glad these six people are willing to do this. I hope at least most of them are willing to do it longer than three years. And so at that juncture, maybe some of them will say, I'm good another year, appoint me to a one-year term if you have that available.

**Fritz:** I appreciated being appointed to an unexpired term on the Planning Commission because theoretically I could have had almost three terms. So, we have had people term-limited out of the CRC that I would have loved to have seen extending on. So, we can do it your way it's just then they are limited to a maximum of six years. If we do it with filling expired terms, they could potentially serve seven.

**Severe:** The one thing about the CRC is that there is no term limit for the CRC. There's a term limit for the Police Review Board but we've had CRC members serve 10 years.

**Fritz:** Well, I think that's a problem, too.

**Hales:** My recommendation, Commissioner, would be we adopt this resolution and appoint these good people but we ask Constantine and the Auditor's Office -- the Auditor's here, they've heard this conversation -- let's come back with a plan for staggering terms so that over time we don't have that wave problem. Again, I think there are a number of ways to solve that and you've suggested a couple, but I think maybe we ought to seize the moment of six good people that are willing to do good work as volunteers, but then find out what other than endurance will determine their tenure.

**Fritz:** Yes, that's good counsel -- lock them while they're willing to do it --

**Hales:** Six birds in hand.

**Fritz:** Right. I would ask you to discuss the issue of term limits as well as the staggering of terms because when we have important committees like this, there's a value in requiring the turnover and giving someone else the opportunity. You don't want to lose all the institutional memory, nor do you want somebody where it becomes ungracious to say we've had enough of your services without term limits.

**Hales:** Yes, I agree with that statement as well. Very good points. We've seen that with the Planning Commission, as well -- folks who've been there a long time adds a lot of value, but some point we need new leadership.

**Fritz:** OK, thank you for the conversation.

**Hales:** So, we can count on you and the Auditor to come back at some point with a change in the ordinance to set up a structure that you think makes sense based on this discussion and what you heard from Mr. Handelman?

**Severe:** Indeed, Mr. Mayor and Council. You have our commitment that we will be working on this, and we'll work together with the CRC and provide something to you folks in short order.

**Hales:** OK, great. Thank you.

**Severe:** Thank you.

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**Saltzman:** Are the applicants here?

**Severe:** Yes, they are behind us.

**Saltzman:** Are they going to introduce themselves --

**Hales:** They are able to answer questions, but they could certainly stand and introduce themselves.

**Saltzman:** Yeah, I'd just be curious -- if they could stand and say their name.

[inaudible]

**Hales:** Thank you all. Thanks very much, both of you. Joe, did you have a question or a comment? Come on up.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice. I have a question. Before you vote, couldn't you just do an amendment on this resolution?

**Hales:** We could, but I personally would rather be more thoughtful about it and give the Auditor who manages this independent function and her staff --

**Walsh:** We get very nervous about OK, I promise to do this. When we hear people say that, it gets lost somewhere along down the line. If you have an amendment saying exactly what you want to do, then it's kind of controlling. So, we would prefer that you would do the amendment. I know you're trying to be nice. We're not nice. We're more direct. So, we would prefer an amendment saying that you would alternate the expiration dates of the people that are on the committee.

**Fritz:** Mr. Walsh, we've got a majority of the CRC present today, and they certainly heard this conversation.

**Walsh:** Right in back of me, yes.

**Fritz:** So they -- I'm certain -- will take to heart our request to bring back in relatively short order an amendment to the terms.

**Walsh:** Yeah, I thought you would go that way. But we want it on the record that we would like to see the amendment. And obviously, we're not going get that and that's OK, but it's on the record and that adds a little more pressure to them. Thank you.

**Hales:** Thank you. Any further discussion? Then let's take a roll call on the resolution.

#### **Item 154 Roll.**

**Fritz:** Usually, these things are somewhat routine. So, thank you very much, all six of you, for being here and for being willing to serve. It's one of the most important committees that we have. It's a lot of work. I hope that we will have the liaisons to the Council offices as we have in the past when the committee was up to full strength, because I personally find it very helpful to get regular briefings, although I do recognize that's an additional trip to City Hall along with the work you're going to be doing. Thank you very much and thank you to Dan Handelman for providing excellent analysis of the six appointees above and beyond what was available to the public -- or summarizing what was available to the public. I appreciate your diligence and also bringing the term issue to our attention. Aye.

**Saltzman:** I want to thank all of you for signing up for a tour of duty, maybe more. We really appreciate the work you're going to be doing -- and it's a lot of work -- so we really appreciate the time you're taking out from your jobs to help keep this a great city to live. Thank you. Aye.

**Novick:** Thank you very much for your willingness to do this. I wanted to note that we have heard from CRC members in the past that the time deadlines in the Department of Justice settlement maybe it rather difficult for you to complete your reviews. I just want to let you know that if that is a concern, bring that to our attention, because it's something we want to monitor and bring up to the Department of Justice if it really comes to pose a problem. Aye.

**Hales:** I appreciate all those comments, appreciate the six you have being willing to do this important work, and our staff for queuing up some excellent volunteers. Just want to let

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you know that as Police Commissioner, I'm interested in hearing from you as well not just in cases where you're sitting literally in judgment -- and that's important and significant work -- but also you're going to have a view of the system, the public safety system that we operate in this city and develop opinions about how to make it better. I'd love to hear from you in that capacity as well, that yes, this is an independent body, yes, it hears cases. But that doesn't mean you don't learn things I could use to hear about how we could improve anything from training to communications to things I haven't thought of here in this moment. So please, don't be shy about that as well, that you have -- every citizen has a right to come to me as an elected official in this city and in this case as Police Commissioner to say, hey, I have an idea to make the system work better. You're going to have a vantage point not every citizen will have, and I look forward to hearing your thoughts through that vantage point. Really appreciate your willingness to serve. Thank you very much. Aye. Thanks. Let's move on to the next time certain item, which is 155.

**Item 155.**

**Hales:** Nothing like an item that starts with "accept one million dollars." Commissioner Fritz?

**Fritz:** I know, this is a very joyful occasion, and in fact, there are many things to celebrate with the Colwood site. This is to accept the grant from the East Multnomah Soil and Water Conservation District. It's a project that has multiple benefits for our community, including adding to the commercial and industrial base, protecting important natural areas, and providing open space and access to nature in historically underserved neighborhoods.

Last year, we purchased -- we being Portland Parks and Recreation and the City of Portland -- purchased the 85-acre Colwood property, which was formerly a portion of the Colwood National Golf Course. Thirty-two of these acres are part of a mitigation project that includes wetland creation and forest restoration that protects natural habitat and water quality along the Columbia Slough. The East Multnomah Soil and Water Conservation District shares our goals for the natural area portion of this acquisition, and they have generously agreed to contribute \$1 million to reimburse Parks for some of the acquisitions costs.

We had previously used system development charge money for the purchase, and that returns the system development dollars back to the system development charge bucket to be available for other purchases and other improvements to provide additional Parks resources. This partnership will result in 37 acres of the Colwood property being preserved in perpetuity as a natural area.

Warren Jimenez, the deputy director of Portland Parks and Recreation, will now have a brief PowerPoint presentation and introduction.

**Warren Jimenez, Portland Parks and Recreation:** Thank you, Commissioner. Good morning, Council. Just to sort of emphasize a couple points the commissioner hit on, I have a short PowerPoint presentation to talk about that.

A little background -- and again, this is just sort of a reminder -- the Trust for Public Land facilitated a land use application for rezoning of the Colwood natural area property. It was brought to Council in October of 2013 for your consideration and at that point, Council chose to rezone the northern portion of the Colwood property for industrial use. What you see on the map here is actually the lower two thirds portion, which is what we're talking about today for the investment. In March of 2014, City Council approved the actual acquisition of the bottom two thirds of the Colwood golf course.

Again, a little more background. Public ownership of the Colwood property certainly ensures a couple of different goals -- certainly keeping the open space permanently is a key goal, and offering that green open space in the industrial area is really a key and an important attribute that we've heard from the community.

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More than one third of that bottom two thirds will be restored and enhanced and managed as natural area, including permanent protection of habitat and water quality along the Columbia Slough. That property will offer a unique opportunity for access to nature in an area that doesn't necessarily have that kind of access today.

This is in response to -- I think we know the Colwood Cully story, but this is in response to really a need for the Cully community. Some of the key quotes that we've used -- and you've seen these before -- one from the regional equity atlas, Cully is suffering from poverty and lack of open space and lack of food access. From Tony DeFalco from Verde, they story I keep hearing from parents and kids is that they don't have a safe place to play. And the purchase of this Colwood property certainly tries to address those issues.

We've made some key investments in the Cully neighborhood. This is a map of the Cully neighborhood. You'll see there in red is the Colwood property. The other investments that we've made -- and we're continuing to work in partnership with key neighborhood stakeholders and key partners like Verde -- is just to the south of Colwood, the Thomas Cully property. What's located here also on the map is something called the [indistinguishable] property on this map. It's a little bit dated, it's actually K<sup>h</sup>unamokwst Park, which will be open later this spring. So, we are trying to do our part to address really key gaps in our system, and I think that's what makes this Colwood acquisition and this property and this opportunity so exciting.

What's even more exciting is the partnership with East Multnomah Soil and Water Conservation District. Some of their priorities include permanently protecting the natural lands for habitat and water quality, climate and biodiversity values, as well as providing that public access to natural and open space -- areas that are either underserved or lack that kind of access. Jay Udelhoven, the executive director, is here today -- and he'll certainly be able to provide more about their priorities -- but we saw this as an opportunity to sort of partner with them in the acquisition of Colwood.

Then the district also saw an opportunity related to the Colwood property to institute some innovative community-based models for planning, design and implementation, as well as prioritizing investment really in the community for job creation opportunities in the Colwood area. The IGA reflects some of these key priorities and values.

So, the grant. East Multnomah Soil and Water Conservation District has awarded the City \$1 million through its Land Legacy program. Like the commissioner mentioned, the contribution will be used for the acquisition of Colwood -- and the total acquisition cost was \$5 million. Another key partner in this was BES, Bureau Environmental Services. They contributed \$500,000 to this acquisition. East Multnomah Soil and Water Conservation District will be a partner in a million dollars towards the acquisition, and then Parks SDCs will contribute \$3.5 million for the property acquisition.

The terms of the agreement. The City will commit to protecting the natural area. The agreement also includes right of first right refusal. If for some reason the City considers doing something different to a natural entity, or conveying it to a different entity -- obviously, that isn't what we're interested in doing -- but this certainly protects their investment in adding this term of agreement in there.

They will have the right to participate as a direct project collaborator in future planning. At some point in the future, we will be doing a master planning process that certainly is later in the future down the road. The term of the agreement is we'll work in partnership with them as well as the community like we would normally do in any sort of planning process. And of course, recognition of their partnership is really key given the level of investment that they're doing.

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The other key things that I just note is going back to investment in the local community with future partnerships. I'll note that those conversations are happening. For example, we've started those conversations with Verde about operations in particular with the golf activities that they're doing there. And so, we're working with them to try to create those opportunities. I know our workforce development manager is working closely with them to see if we can create that pipeline with job opportunities with the golf course.

The mitigation work that's happening there on the property is happening and going as we speak, and Verde is a partner in that with Trammell Crow on doing those plantings.

Just a couple of quick thank-yous. Certainly, the board of directors, especially Bob Sallinger who is on the board; Rick McMonagle, who is here today and who is the program manager. I work closely with Rick. And really key staff -- Cynthia Castro, Zalane Nunn, and Deb Lev and Eileen Argentina; as well as Jay who's here today -- executive director who would like to talk for a few minutes about this opportunity -- as well as certainly last but not least, Don Goldberg, who as you know has been really key in teeing this up for success on this project who's also here today. Thank you.

**Hales:** Great.

**Jimenez:** Thank you.

**Fritz:** If our other invited guests could please come forward.

**Hales:** Good morning.

**Jay Udelhoven:** Good morning, Mr. Mayor, members of the City Council. My name is Jay Udelhoven, I'm the executive director of the East Multnomah Soil and Water Conservation District. I am in the enviable position today to come here and ask you to accept our funding for this important project. So, on behalf of the district's board of directors, I would like to thank the City for leading the effort to protect this area.

As you may know, the East Multnomah Soil and Water Conservation District is a relatively small government agency with a big name. We work with residents, citizens, landowners, land managers east of the Willamette in Multnomah County to care for land and water. We do this both in the rural areas and the urban areas.

We have many programs, but one of the important ones is our Land Legacy program. Through that program, we can use direct purchased or we can partner with like-minded entities such as the City to protect important agricultural areas and natural areas. And the Colwood project really represents a good example of a partnership that we can undertake through the Land Legacy program.

We see this as really important opportunity to provide local community members access to nature but also access to the planning process for the future of the site and economic opportunities that are related to the area. So, we look forward to working with the City on this project and on other similar projects. Thank you.

**Hales:** Thank you. Any questions for Jay? Thank you so much. Appreciate you being here. And obviously, this is a major committee by the district. So, we appreciate the partnership.

**Udelhoven:** As do we. Thank you.

**Hales:** Mr. Goldberg.

**Don Goldberg:** Good morning, Mayor and Commissioners, My ego is getting tremendously big from this project.

**Hales:** [laughs] All justified.

**Goldberg:** I want to thank everybody. It really has been a pleasure on such a long process -- the outcome is what we're all here for, and it's been tremendous. And I've preached the entire time about balance, and that includes balanced funding, balanced process, and balanced outcome. This funding source adds to that balance of the funding. We know that we'll have a lot of money to spend in the future on actually building out the project, so it's always nice to receive funding of this nature.

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Also, Commissioner Fritz was there last week but a lot of people are probably not aware that the project won last week -- the Columbia Slough project of the year achievement. I want to thank everybody and I strongly support this.

**Hales:** I understand your ego is properly controlled by an impersonation of you by a member of my staff.

**Goldberg:** Yes, and a member of your staff and I are going to be having a conversation. [laughter]

**Fritz:** So, Don Goldberg of the Trust for Public Land just testified. I thought you won the award at the Columbia Slough Watershed Council. So, you are being very gracious. It was good team effort, though. We appreciate your leadership -- Warren Jimenez and your team in Portland Parks and Recreation -- balance is a really good word for it. Thank you.

**Goldberg:** Thank you.

**Hales:** Looking forward to seeing that video soon.

**Fritz:** That was great.

**Hales:** Anyone else like to speak on this wonderful item? If not, it will pass the second reading, right -- it is not an emergency ordinance. So, Council comments before we do? Again, thank you for your partnership, this is a great piece of work.

**Saltzman:** I'd like to offer my thanks to the East Multnomah County Soil and Water Conservation District for their generous contribution to the Colwood Park open space and the Trust for Public Land, Don Goldberg. Thank you.

**Hales:** It'll pass to second reading and be on our consent calendar for final approval next week. Thank you very much. Good work.

**Item 161.**

**Hales:** Good morning.

**Christine Moody, Chief Procurement Officer, Office of Management and Finance:** Good morning. Christine Moody, procurement services. You have before you a procurement report recommending a contract award to CivilWorks NW. The original engineers' estimate was \$660,000. On December 8th, 2014, seven bids were received, and CivilWorks NW is the lowest bid at \$507,286. The Portland Water Bureau has reviewed all bid items and believes the prices offered are good.

The City identified five divisions of work for potential minority, women, and emerging small business subcontracting opportunities. Subcontracting participation on this project is at 29.4%. I will turn this back over to Council, or if there are questions about the bidding process, Dave Peters from the Water Bureau is here to answer any technical questions you might have.

**Hales:** Questions?

**Fritz:** Do we know if any of the other contracts had higher levels of minority participation in the subcontracting?

**Moody:** In the subcontracting, I'm not sure, but we did receive bids from minority firm, a women-owned firm, and an ESB firm as a prime contractor, but they were not the low bid.

**Fritz:** Thank you.

**Hales:** Any other questions thank you very much. Anyone want to speak on this item? Then I need a motion to adopt the report.

**Fritz:** So moved.

**Saltzman:** Second.

**Hales:** Further discussion? Roll call on adoption.

**Item 161 Roll.**

**Fritz:** Thank you for your work. Aye.

**Saltzman:** Aye.

**Novick:** Aye.

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**Hales:** Nice to see one come in under estimate on the occasional basis. Aye.

**Item 162.**

**Hales:** Mr. Gibson, good morning.

**Scott Gibson, Bureau of Environmental Services:** Good morning. We have a presentation over here -- I'll stall while we get the slide show set up. Good morning, Mayor Hales and City Council. My name is Scott Gibson, I'm principal engineer at the Bureau of Environmental Services. With me today is Dan Hebert. He's a senior engineer, he also leads our pump station engineering team and he's the overall project manager for this Riverview Force Main upgrade project. We're here today asking for authorization for a contract to construct the project. We have a short presentation, and then we'll answer any questions.

**Hales:** OK, great.

**Dan Hebert, Bureau of Environmental Services:** Good morning. As Scott said, I'm Dan Hebert, I manage the pump station engineering section. Really short presentation here, and then I'm here for some questions.

The Riverview pump station force main replacement project is intended to replace a line that was installed in 1965. It's an eight-inch cast iron pipe that's had some maintenance issues for about 20 years now. It conveys a flow of about 500 gallons a minute, and right now is aligned in the southbound lanes of Highway 43 which is in ODOT right-of-way. We've had to coordinate with ODOT -- significantly coordinate with ODOT because of some traffic concerns and a need to maintain traffic there, there's going to be quite a bit of night work involved in this project, which tended to increase the estimated cost for the construction work.

As I mentioned briefly, we've had about 20 years or so of minor releases, cracks, and holes in the pipe that were primarily due to some bedding issues with the original construction -- [indistinguishable] that was up against the pipe caused it to erode and crack. So, we're going to replace the project with eight-inch pipe that will be protected and should provide for a minimum 50-year service life and perhaps much more than that.

As I mentioned earlier, the ODOT conditions and restrictions are going to result in some night work, and we've done quite a bit of outreach with the neighborhood and the public to make sure they understand that and to advise them of what's going to happen, and that'll continue through the construction project.

Scott mentioned the estimated construction costs is \$1.9 million. We have an optimal level of confidence in the estimate. Right now, the cost [indistinguishable] design permitting on the project is about \$398,000; and our total project cost is estimated at about \$2.5 million.

Just to give you an idea where the project is located -- I know this is a little hard to read on a small screen -- the pump station itself is located about a half mile south of the Sellwood Bridge on the west side of Highway 43. The force main is 3000 feet long, travels southbound, crosses a bridge and then goes across Highway 43 and discharges to a manhole on Riverview Street, I think it is.

Just a few pictures to wrap it up. The picture on the left is the pump station facility which was remodeled in about 2005, converted from an old style station to a new submersible pump station. The picture on the right is just the force main alignment pretty much down the fog line through Highway 43.

Another couple of pictures. On the left, again, just the alignment. The southbound lanes in the foreground in this picture. The ODOT bridge -- the new force main is hanging off the west side of the bridge on some actual structural attachments that are already cast in and part of the bridge. The older force main went around this, and there's kind of a looped alignment where we had a lot of problems with corrosion and cracking and leaking.

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Just a picture of the discharge manhole which isn't really showing very much, just the manhole plate in the street.

Purchasing. We'll report back to Council when procurement [indistinguishable] bid, and we're planning for construction this summer. With that, I'll try to answer any questions you might have. Thank you.

**Saltzman:** So, is this force main taking sewage flow to the Tryon Creek treatment plant?

**Gibson:** It is.

**Saltzman:** OK.

**Hebert:** Yes, they do end up at the Tryon Creek treatment plant. They go through the [indistinguishable] pump station facility and then get pumped down the Tryon Creek.

**Hales:** Other questions? Thank you both very much. Anyone want to speak on this item? If not, then this is a nonemergency ordinance and it'll move to second reading. And then why don't you stay handy because the next one is you, too.

**Item 163.**

**Hales:** Scott, it's all yours.

**Scott Gibson, Bureau of Environmental Services:** Thank you. Karla could we get that -- ? One more presentation.

Once again, welcome and good morning. With me today is Vu Han, an engineer who works in our wastewater engineering team. He's the project manager for this effort. We're here today asking for authorization to amend the contract with the engineering firm of HDR to add final design and construction support to their current scope are work and to adjust the contract amount accordingly. We have a presentation which I think you'll find a little more interesting, and then we're here to answer questions.

**Hales:** OK. Good morning.

**Vu Han, Bureau of Environmental Services:** Good morning, Mayor. Good morning, Commissioners.

Digester gas, or biogas, is a byproduct from the anaerobic digestion process at the Columbia Boulevard Wastewater Treatment Plant. The plant produces about 600 million cubic feet of biogas annually, or about 1.6 million cubic feet a day. Our biogas has about 60% heating value compared to natural gas. Currently, of the total biogas production, we beneficially use almost 80% of it.

This diagram illustrates the current utilization of the biogas. Of the total production, about 16% is used in boilers for heating uses on site; 41% is used to generate power used on site; another 20% is sold to the nearby Malarkey Roofing Company for their manufacturing process; and about 23% is still flared.

The objective of this biogas project is to find the most beneficial use for the remaining biogas that is still flared, as you can see in this picture. The City retained HDR Engineering firm to evaluate a number of alternatives for the biogas. The analysis consisted of five main alternatives. Alternative one and two are very similar, in which we would expand the existing co-generation system to make more power. Alternative three is to treat the biogas and convert to a vehicle fuel. Alternative four is to treat the biogas and sell as a natural gas commodity. Alternative five is to use the biogas to dry biosolids and reduce the number of truck trips in our biosolids land application program.

The analysis used the triple bottom line approach, which took into account the costs and benefits of the financial, social, and environmental secretaries. The analysis also aligned with the BES-adopted twelve levels of service and the Climate Action Plan. And the recommended alternative is biogas use for vehicle use with further consideration on pipeline injection.

**Saltzman:** What does pipeline injection mean?

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**Han:** Pipeline injection means you would inject the product into the utility company gas pipeline to wheel the product to a remote location.

**Fritz:** To where?

**Han:** To anywhere.

**Hales:** So, it'd just go into the mix of what the gas company is selling?

**Han:** Right. At that point it would be an accounting exercise.

**Hales:** Treated to the point where it's the essentially the same as natural gas and anybody could burn it?

**Han:** That's correct. You would have to provide the gas quality to meet the pipeline specifications, and then you can pick up from the other end and it could be anywhere.

**Gibson:** This is similar to home solar: when you'll be generating more power than the house needs, it's allowed to go back into the grid as a credit.

**Han:** From the alternative analysis and as shown in this present value summary, two alternatives -- cogeneration with biogas storage and biogas for biosolids drying -- have significant negative net present values. That obviously means they are not good investments from the financial standpoint. The other two alternatives, cogeneration with no biogas storage and gas sales to the industry as a natural gas commodity, are roughly breaking even. The vehicle use alternative is the only one with significant positive net present value. That is the \$8.2 million shown in the analyzed material.

All of the analyzed alternatives have net benefits from the sustainability, which are shown in the monetized values for the social and environmental impacts. However, vehicle use alternative is drastically more in order of 10 times the financial impact. The main reason is that it will displace the use of the dirty diesel fuel and therefore reduce the greenhouse gases and other air contaminant emissions into the environment. The expected payback for the recommended alternative is eight to 10 years.

So, why do we want to use gas treatment for vehicle use? I just mentioned it has the most economical and sustainability benefits, but other factors for this recommendation include: it has the opportunities for grants and financial incentives; it is a sustainable, renewable source of energy. Unless our wastewater treatment plant goes away, we'll always have biogas. The energy market is extremely volatile, so we'll be insulated from the market fluctuations as well. Another factor is that it utilizes a domestic source of energy. So, we are that much less dependent on foreign oil. Also, there's a likely public and private partnership that comes out of this project. It also contributes to building alternative fuel infrastructure in this region and contributes to the Climate Action Plan.

This graph shows the industry estimates for greenhouse gas reduction of a full cycle transportation fuel options compared to gasoline. Non-plug-in hybrid electrical vehicle gets about 20% reduction. CNG, which stands for compressed natural gas, gets about 25% reduction. A plug-in electrical vehicle gets about 55% reduction. Now, plug-in electrical vehicle has zero emission during use. But they key here is full life cycle. In many parts of the country, or many parts of the world for that matter, electricity is still generated by fossil fuels, so that is why plug-in vehicles only gets credit for about 55% of reduction, as opposed to 100%.

The renewable CNG, which is the recommendation, gets a whopping 75% reduction. To give you a sense of the renewal gas capacity, the flared gas volume is enough to produce 1500 diesel gallon equivalents today. That is enough to power about 120 F150 trucks, or about 40 waste haulers, or 25 school buses on a daily basis. Put it another way, this is equivalent to about 25% of the total daily fuel consumption by the entire City of Portland Fleet.

The top part of this slide show a process for biogas to vehicle fuel. The biogas goes through a gas conditioning system to remove contaminants such as carbon dioxide,

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hydrogen sulfide, syloxine, and moisture. Then it gets compressed and dispensed into vehicles. The bottom part of the slide shows a rendering of a complete system where biogas enters the left side of the slide through the gas conditioning system, then compressed to the required pressure, stored in the cylinders shown, and dispensed through fueling equipment similar to gasoline fueling equipment.

As for current developments, we are in discussions with the local utility company, that is NW Natural Gas company, with the potential of using their pipeline network for wheeling the gas product and possibly for joint marketing of the gas or as a partner for third party off-takers. We are also in discussion with our own City Fleet on the use of the renewable CNG internally. We are in discussions with the treatment plant's biosolids haulers, other City refuse haulers, as well as other potential off-takers.

The original project's scope and the current project budget were established a few years ago for a cogeneration expansion project. However, through the alternative analysis, that is not the recommended alternative. The recommended alternative -- which is vehicle fuel -- and the current revised scope is to include a biogas treatment system, compression equipment, storage, and fueling facilities.

The current budget is \$5.6 million, which was set for a cogeneration expansion project. Our current cogeneration system, which was installed about seven years ago, was more economically viable at the time due to the financial incentives from grants and tax credit programs which covered a third of the project costs at the time. Those incentive programs for cogeneration projects have dried up, and in the recent years, redirected toward the alternative fuel infrastructure projects. The revised project budget is \$10.9 million, which has been conditionally approved by BES CIP adjustment committee with concurrence by the City Council and approval of the final design.

BES has submitted an application to the Oregon Department of Energy on the alternative fuel vehicle infrastructure tanks program in the amount of \$2 million. The project's cost could be further reduced by the financial incentive. This application has passed the screening stage and is now in the technical review stage.

Ordinance number 185872 approved HDR Engineering contract for the only pre-design phase. Because we had to do the alternative analysis and did not know the exact outcome, BES elected the phase approach with a separate ordinance for the final design and construction services. The current pre-design contract is \$298,600. The contract amendment is \$995,410, which makes the total revised contract amount of \$1,294,010.

The reason for the larger contract amendment is because the final design and construction phases are larger phases of the project than the pre-design, and the fact that there is a scope change in this project from cogeneration to vehicle fuel.

This Council item approves the contract amendments for HDR Engineering for the final design and construction services. The level of confidence rating for this project estimate is moderate.

Next steps for the project are to complete the final design, complete discussions and agreements with the utility company and/or the off-takers. We project to start construction in early 2016, start up and have gas approved available in the year 2017.

We'll come back to the City Council at least two more times on this project: upon the completion of final design and before construction, and an ordinance would be submitted to authorize for bidding and award of a construction contract. Also upon complete discussions, negotiations, and agreements with the utility company or the off-takers for the gas, an ordinance would be submitted to authorize for a revenue contract or contracts. And with that, we'll take any questions you may have.

**Hales:** Questions?

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**Fritz:** I very much appreciate this thorough presentation and your staff for previously answering my staff's questions. So, that the construction contract would be about \$8 million -- somewhere on that order, is that right?

**Han:** If we are awarded with the financial incentive or the tax credit program.

**Fritz:** So, I'm a little concerned -- obviously, you've done a very thorough analysis. It seems like the best option both financially for the ratepayers and also socially for the environment and other considerations. I'm a little concerned about moving forward before we've got an assessment of who's going to buy this product. And in particular, I'm wondering for City Fleet, what would be the cost of converting City Fleet to be able to use this fuel?

**Han:** We are looking into that, we're looking into the number of vehicles that would come to the treatment plant for fueling. The classes of vehicles, obviously, the bigger vehicles, the better bang for the buck. And it is the cost of the conversion of the equipment and the cost of the conversion of the shop to handle the maintenance of the vehicles. We're looking into that, but it requires more investment. But you would get an offset of the diesel fuel price as opposed to a wholesale price. So it's a higher risk, higher reward.

**Fritz:** When will we have that information as to what's the risk and reward?

**Han:** We're hoping within three months.

**Fritz:** So before we approve the construction contract?

**Han:** That's correct.

**Gibson:** Certainly.

**Han:** We'll have to come back at the end of the final design to get authorization to go forward with construction.

**Fritz:** I'm mindful of the conversion of some of the City cars to biodiesel and then the concern about if that's a sustainable source of renewable energy. I love the public-private partnership -- this is a uniquely public-private partnership and also it references the domestic input, because this a reliable source of ongoing fuel as long as we all keep flushing our toilets. So, that's really a good thing. I am going to be very concerned about the cost of converting the vehicles and what the payback is. I appreciate it that you say the payback just for this part is eight to 10 years, but that's assuming we can sell the product, right?

**Han:** That's correct. The project on the table is to wholesale product.

**Hales:** You've got kind of a layered approach, right? You can sell to the gas company -- if I understand your presentation, you potentially would have the option of selling the product to the gas company until such time as we generate other reliable users, whether they are contractors or ourselves, right? So, maybe in the short run you're selling it to the gas company, maybe as we cycle the Fleet you're selling it to Fleet. Maybe you're selling it into our garbage haulers if we put that into our renewal contracts with them when they come back for franchise approval. It seems to me -- maybe I'm overly optimistic when looking at this presentation -- but you've got lots of options about who the buyer is, and that might change over time.

**Han:** That's correct. The gas company itself is supplier in this project here. So, we are in discussion with them as well.

**Hales:** They're not required to purchase it from us, right, unlike some of our situations of electric purchases of solar-generated power?

**Han:** That's correct. I neglected to mention the SB 844, the Senate Bill 844 that requires the utility commission to set aside voluntary programs to incentivize projects to help with building alternative infrastructure in this region, and that is a program that we'll have to work with the utility company to have access to.

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**Fritz:** And remind me why -- it's currently being used, 20% is being used for on-site digester and building heating, 20% is sent to a nearby user. Why can't we sell off what is currently being burned off, why do we have to additionally treat this to go to a natural gas system?

**Han:** The infrastructure to sell off the gas in Milwaukie was put in 25, 30 years ago, so it's reaching its capacity at this point. So in order to tell the whole portion of the gas flare at this point, you would have to add to the infrastructure which is, number one, expensive; number two, it's pretty hard to get permits to build a pipeline through private properties and all that.

**Fritz:** So this is also renovating the other 80% of the system in this proposal?

**Han:** No, this project right now only deals with the portion that is flared at this point.

**Fritz:** But you just said the Malarkey piece needs to be replaced, too.

**Gibson:** No, it's just at its capacity, so expanding it would be difficult. They're taking all the gas they can use and we're sending as much as we get to them, and it's not a viable option for the other remaining 23%.

**Hales:** There's no other nearby industrial user like them, right?

**Fritz:** Well then -- I'm sorry to be dense, but why does it need additional treatment?

**Hales:** They're using it to make roofing shingles, right?

**Gibson:** Yeah.

**Han:** Actually, they buy raw biogas from us because they have equipment that's capable of using raw biogas without treatment. But we cannot get more gas for them, and they don't have the need to get more gas.

**Fritz:** Thank you.

**Saltzman:** They do not have need for more gas -- Malarkey Roofing?

**Han:** We are still talking with them at this point but they are pretty much reaching their maximum at this point.

**Saltzman:** I guess I'd be interested in knowing -- and you don't have to tell me now -- what is the cost if we were to expand the pipeline capacity to Malarkey, compared to the \$10 million we're looking here to get a fueling station, which we're not sure yet we have off-takers lined up and we're depending on a \$2 million grant? So, if that's something -- this is a first reading. If you can provide me that information, maybe provide all of us. I'm just curious.

**Han:** First of all, we have an initial proposal from NW Natural at this point. We have not accepted it. So, we're making a counterproposal to NW Natural. With regards to Malarkey, it's again -- it's like a couple miles, a mile and a half of pipeline there, and it goes to many private properties, railroad tracks, and all that. It would be very expensive and very hard to get permits to build additional pipeline.

**Saltzman:** So, that analysis exists somewhere. I'd like to see it.

**Han:** We didn't do that specifically, but the cost benefits from this option is a lot more than that option than the alternative to sell biogas to Malarkey.

**Saltzman:** I'm a little confused. I'm very supportive of what you're trying to do here, but I'm confused because on the one hand you're telling me there's a cost benefit analysis, on the other hand you're telling me it doesn't exist. I mean, we're paying HDR almost a million dollars here. Yeah, we will if we approve this -- be paying them a million dollars.

**Gibson:** We can double back and give you information --

**Saltzman:** It seems like the analysis -- [speaking simultaneously]

**Han:** Sure --

**Gibson:** Yeah, I appreciate that. And I think one of the things in my mind that is relevant here is the value as a fuel, both environmentally, socially and financial is quite a bit higher than the value as a biogas burner at Malarkey. So, there are certain options that were not

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included in the analysis because on first blush they didn't seem to pencil out. We can go back and make sure -- provide additional information to you on what that might look like. What I'm saying a lot of the bang for the buck is in the actual use in vehicle fuels, and we wouldn't get that with Malarkey, so it wasn't one of the five that we identified in the formal analysis.

**Saltzman:** Yeah, and I appreciate that, but it does seem -- like I said, I like the idea of using this gas for fuels. But I also know we have issues around do we have the vehicles to use them -- whether the City or waste haulers or school buses -- those all sound like attractive sources, but I also know there's costs and acceptance issues around those. You know, I've been around these issues long enough to know that getting the demand for that is maybe not as easy. There's a \$2 million grant we're depending on, and that makes me a little nervous.

**Gibson:** Yeah, and I think you all have keyed in on to the biggest issue to success, and that is finding a market or a buyer for the vehicle fuel and making sure that that works for them as well as for us. And as far as the financial benefits, which portion of those do we try and capture by say doing it with City Fleet, or we do some sort of marketing and arrange with NW Natural Gas whereby they can market the gas to other providers. And the returns will be different depending on which customer we ultimately sign up with, and we've got a lot of work to do to figure out where we're headed.

**Saltzman:** Prior to any construction contract award, then we will have answers to --

**Gibson:** You will have all those answers --

**Saltzman:** Do we have the grant --

**Gibson:** Yeah.

**Han:** That's correct.

**Gibson:** More to the point is we do need HDR support in helping us evaluate these alternatives and figure out where we're going to be headed. They've been very supportive and very knowledgeable, and so we're relying on them heavily and that's part of this contract as well -- to help us make those decisions.

**Hales:** One other question I have is just this is pretty innovative, have other treatment plants elsewhere in the world done such a thing? Is this the first, the tenth such installation? Where are we in that creativity curve here?

**Han:** Yeah, there are none out there this region but they are looking into it. City of Renton is working on an agreement with BP to do similar things. And Washington County, Rock Creek plant is looking at the same thing for the extra biogas that they have.

**Hales:** I don't mind just being first, but it's interesting when others have tried things out for us sometimes. Any other questions? Thank you both for a great presentation. We'll take public testimony. So, anyone wants to speak -- Lightning, come on up. Good morning.

**Lightning:** Good morning. My name is Lightning, I'm with Lightning Watchdog X. I don't mind the added money needed for HDR Engineering. I think it's very beneficial and it will be done right. Some of the concerns I have on this is that -- as Commissioner Fritz stated - - the vehicle conversion costs. My focus is on the diesel. I understand you just need to re-plug the diesel engines and do a carburetor to do this but again, through your reports you can state otherwise on what is necessary to do that.

Another issue I have is on the overall cost. I would like to see it actually go through NW Natural Gas and really not do the vehicle conversions at this time. The reason I'm saying that is it's my understanding sometimes there's a 10% to 20% loss of power due to this type of fuel -- difficulty in starting on cold weather, gas leaks at the carburetors, corrosion of equipment from the biogas, limited range, and there's been many drivers that have stated dissatisfaction. Now, when we're reverting back to the overall cost of the fuel that we really didn't get into, I would like to maybe also in your studies look at nitromethane

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to see if we could possibly -- from a cost factor, if that could possibly go in that direction also. Again, as I've stated, I definitely want to see this work with NW Natural Gas on an overall value here. And as far as on getting the grants and payoff in eight to 10 years, it definitely looks like something to possibly proceed forward on at this time. Thank you.

**Hales:** Thank you.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice. One of the thoughts that went through my head as I was listening to the presentation is it's a lot of loose ends on this. And also, it seems to me to be so preliminary as a report that people watching this must have been totally confused. I know I was watching some of these questions on your faces, and from time to time you were confused also -- at least that's the expression you had on your face. When I was working for a living I at one point was a utility supervisor along the navy shipyard, so I have some background in waste, so I understood some of it. But I was lost.

So, it seems to me that we may be running into a backlash, because Commissioner Fish has said to us that anything that approaches \$1 million that he would bring before the council. I think on this one it was preliminary and there was an awful lot of "I don't know" or "we're working on that" or "yeah, we have to get back to you on that" -- and that shouldn't happen. If you ask direct questions to your staff or to the BES, they should have direct answers. So, they should have been prepared to answer the question about the Fleet and what the expenses would be to change over to Fleet to use this biogas.

So, those are some of the things that went through my mind. I don't object to this because it's so preliminary. I hope -- and we appreciate some of the questions from the commissioners, they were good questions. And I hope you keep an eye on this because I'm uncomfortable with this for some reason. And I think it has to do with the loose ends and nonresponses to some of the really good questions that you asked. Thank you.

**Hales:** Thank you.

**Lightning:** Can I add one thing real fast? The statements made that will save money on the biosolids -- I want to have a calculation on that also because as you know, in the past we have had discussions on transportation costs to various locations. So, I want to see how that's factored in on this overall project. Because everything they stated actually looks very good at this time. Just needs more analysis. Thank you.

**Hales:** I think we'll get those numbers. Good. Any other questions or comments? So again, some follow-up required here and look forward to getting more information from you as you've got it. But then this passes to second reading, and it's just for the engineering contract. We'll come back on the construction phase if it's still viable. Aye -- sorry, the rest of you haven't voted. [laughter] Just trying to run an autocracy here. Roll call, please.

**Moore-Love:** It goes to second reading.

**Hales:** That's right, sorry -- I said that. I confused myself! Second reading. Now, back to the agenda.

**Item 164.**

**Hales:** Commissioner Novick.

**Novick:** Colleagues, we have had since I believe 2009 an intergovernmental agreement with Multnomah County which commits us to spending up to \$86 million on the Sellwood Bridge project, and the current IGA says we will make our final payment at the end of this month. The problem is we don't know at this point what our contribution is going to be -- whether it's \$86 million or something less than that. So, this is a rather technical amendment to the IGA which would postpone final date for making our final payment until a time at which point we think we'll actually know what we owe. I'll turn it over to Greg Jones and Jonas Biery.

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**Greg Jones, Portland Bureau of Transportation:** I'm Greg Jones with the Bureau of Transportation. As the commissioner stated, this is a technical amendment to adjust the payment dates for the bond proceeds to be given to Multnomah County for the bridge. Right now, it appears that the completion date when we will know the actual cost is closer to November of 2016, so we're not in a position to make the payment this month. If we were to try to make the payment this month, we would either overestimate or underestimate, so it's I think been a good working relationship with the county to modify these dates so that we can do a more accurate payment.

**Hales:** Questions for Greg or Jonas? Alright, thank you very much. Anyone want to speak on this item? This is an emergency ordinance, and we need to take a roll call vote.

**Item 165 Roll.**

**Fritz:** As my staff's analysis says, this is a good thing. Thank you, Commissioner Novick.  
Aye.

**Saltzman:** Aye.

**Novick:** Aye.

**Hales:** Let's hope everything we approve passes that test. Aye.

**Item 165.**

**Hales:** This is second reading. Roll call.

**Item 165 Roll.**

**Fritz:** And we took out the one property. Aye.

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

**Hales:** And we are recessed until 2:00 p.m.

At 11:10 a.m., Council recessed.

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**Closed Caption File of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**FEBRUARY 11, 2015      2:00 PM**

**Hales:** Let's come back to order. Would you call the roll please, Karla?

**Fritz:** Here. **Novick:** Here. **Hales:** Here.

**Item 166.**

**Hales:** Very happy to welcome Chair Kafoury and her team here this afternoon. Thank you very much.

**Deborah Kafoury:** Thank you. Good afternoon. Thank you so much for having us here today to talk about youth access and exposure to tobacco and e-cigarette or vaping products.

Over the last several months, the Multnomah County Board of Health -- which is also the Multnomah County Board of Commissioners -- has had testimony from our Health Department and from the Oregon Health Equity Alliance about the impacts of tobacco and the emerging e-cigarette market on our community's health. We've also heard from high school students, from the police officers who work in our schools, and from scientists who study these products. And as the County is planning to consider taking action tomorrow at our board meeting, we want to make sure that all the information we've been hearing is shared with you as well. We've also been to four out of the five cities so far in Multnomah County to talk with our residents across Multnomah County about this issue because it's so very important.

We all know that smoking is harmful and it kills nearly 1200 people a year in our county alone. We don't want our kids to smoke and we have spent decades changing public opinion around smoking. However, there's a new product on the market -- not so new anymore, but it still seems new to me -- called e-cigarettes. These are marketed in flavors that are attractive to children and can be legally sold to youth. This industry threatens to reverse the progress that we have made in reducing smoking among youth.

I was really shocked when I first learned that my nine-year-old could go to any store in our community and legally purchase and use e-cigarettes. Many of these vaping liquids contain nicotine and other ingredients that are harmful. Recently, a child died from ingesting e-cigarette liquid, and just last week, a Portland child spent nine hours in the ER after she ingested this vaping liquid. We don't know what ingredients are included because there is no labeling requirement for e-cigarettes, but we do know that they are popular with kids and that use has tripled among U.S. middle school and high school students between 2011 and 2013.

Multiple states and local jurisdictions across our country have taken steps to address this growing health concern. As I said, tomorrow, Multnomah County is considering expanding the Indoor Clean Air Act to include e-cigarettes and restricting sales to and use by youth of these vaping products. In addition, we are going to consider taking action this summer on retail licensing, which is a key component to this. Right now, we don't know who's selling these products in our community, and it makes it very hard to educate the people that work in these stores and the owners about the emerging markets. We do know, however, that the federal government does a study every year, and

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Multnomah County has the dubious distinction of having one of the highest rates of illegal sales to minors in the country.

So, we believe that as the Board of Health we have a responsibility to consider how we can stop kids from buying and selling and using e-cigarettes, and how we can educate retailers and keep our community healthy. I hope you will support us in these efforts, and I'm really happy to introduce Dr. Jennifer Vines, who is a county health officer.

**Jennifer Vines:** Good afternoon, Mayor Hales and Commissioners. I'm Jennifer Vines, I'm the deputy health officer for Multnomah County Health Department and I'm a family doctor by training and also trained in preventive medicine and got a Master's in Public Health for this very reason -- the change to impact the health of many people comes through working with policy makers like you and like our Board of Health. So, it's truly a pleasure to be here today.

We're going to give you a very brief overview of the landscape of tobacco and nicotine in Multnomah County. I'm going to speak briefly to the health effects of nicotine, especially as they relate to our young people. And then we're going to be talking about youth access to these products. Again, as Chair Kafoury said, electronic cigarettes are completely unregulated, and any meaningful conversation about keeping these products out the kids' hands should include mention of the tobacco retail environment.

Let's go ahead and get started and talk about nicotine and the effects on the young brain. People think of nicotine as just the addictive substance in cigarettes and it's all the bad things in cigarettes that affect your health, and the nicotine keeps you coming back and continuing to smoke. In fact, nicotine itself has health effects; it's associated with accelerated cardiovascular disease. And in young people, their brains are particularly sensitive to the addictive effects because their brains are still developing.

We have animal models that suggest long term structural changes to the parts of the brain that control intellectual function and the brain's reward system pathways, and the Surgeon General's report on smoking cites several studies that associate youth nicotine use and behavioral problems later in life, like anxiety and depression and other substance abuse. The image you see here -- it's just how quickly just even three puffs of a cigarette can saturate the brain's receptors in a young person.

So, these pictures are sort of intended to be shocking -- I find them shocking. This is completely legal. We know it's becoming more common. Again, use has almost tripled among Oregon eleventh graders from 2011 to 2013. And here we are in 2015 again, probably with use being even more common than that. But the reason we talk about young people in relation to this topic is that the vast majority of smokers begin by age 18. Again, young people's brains are particularly susceptible to the addictive effects because they're still developing. Young people are also the targets for millions and billions of dollars that are spent on marketing these products -- not just tobacco, frankly, which should be illegal to sell to minors, but also now of course the burgeoning electronic cigarette industry.

These are examples of electronic cigarettes themselves. They are in the middle, and I brought some examples to show you. From a distance, this probably looks like a regular cigarette. This is in fact meant to be a disposable electronic cigarette. So, this is prefilled with liquid nicotine inside, and you just inhale and that triggers the battery to vaporize the liquid and inhale and exhale your puff of smoke there, just like a cigarette.

This is called a vape pen. The mouth piece is here, and I can take that off. You unscrew the mouthpiece and then people will purchase different flavors. I can choose from blowin' raspberry or Irish cream or blackberry cobbler. And again, sometimes the ingredients are listed. Again, completely unregulated, so may not be what's actually in these liquids. To fill up your vape pen, you press the button in this case which heats up the liquid to vaporize it and then you inhale it and exhale it that way.

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These are photos from the Multnomah County Tobacco Retail Assessment that the Health Department did with community partners. On the right, you can see tons and tons of flavors to choose from again in these little bottles. When Chair Kafoury talks about children ingesting these liquids, I suspect this is what's happening, right. So again, unregulated, non-child-proofed, bright colors, they smell sweet. Even our youngest kids are getting hands on these liquids and risking overdose. And we know that calls to poison control have exploded parallel with the explosion of the use of these products.

On the left you can see some -- well, maybe, there's a lot in there -- what's mixed in there is electronic cigarettes mixed in with candies and other things to people to help themselves to. Again, this is a local retailer where the products are not behind the counter, they are mixed with other products that kids may be interested in.

I'm going to hand it off to Jae Douglas. Hopefully now that I've gotten to you to feel a sense of urgency around this issue, Jae going talk about some of the policy solutions we've been discussing with our Board of Health.

**Jae Douglas:** Good afternoon. Again, my name is Dr. Jae Douglas, I'm your Environmental Health Director and I have the privilege of leading a team that is responsible for ensuring that the existing laws around the Indoor Clean Air Act are followed, adhered to when it comes to tobacco.

We recognize we've had some public health successes when it comes to reducing the use of tobacco in our population, held in contrast to some notable concerns that we're still dealing with. You heard just a little bit ago about the very high rate of illegal sales that we are still experiencing in Multnomah County. Multnomah County unfortunately leads the country in terms of its access to legal sales in the retail environment to youth, so that's why we do focus on the retail environment as the mechanism by which we need to address how youth are accessing these products, existing combustible tobacco, the burnable tobacco, and then these new e-cigarettes products.

A number of jurisdictions have taken action. Retail licensing is probably the most prominent action that many states and eight communities in Oregon have already taken. And again, that's to begin to identify where these products are being sold and to hold the owners of those establishments accountable to existing law. It's something that we're considering -- we know that we need to work with the retail environment in a number of ways, and what you're going to see coming up are different strategies that other jurisdictions have used, including placement of retail shops relative to schools, prohibiting tobacco sales in certain environments -- pharmacies are a notable and logical one -- limiting the advertising. We've just heard about the extraordinary numbers of dollars being spent to target advertising especially to youth. You'll notice in that slide we had some other pictures from the same survey where advertising is blanketing the fronts of these small retail stores and are often at -- I have a 5-year-old granddaughter, and these are at eye level for her. And there's no doubt that these bright colors and good-smelling flavors are enticing to young people and I think can begin to normalize the presence of these products in environments where small children, larger children could easily reach out and take them.

We know that there are a number of strategies. I do like the graphic that you're seeing here about other kinds of activities that require a license, which does not at this time include selling tobacco.

We do know that putting products behind the counter will increase the likelihood that the employee will have to think a little more clearly about selling a product to a person who's underage. Price discounting is a strategy that industry uses to make it easy. We know that youth in particular are extraordinarily price sensitive, and so strategies for reducing packaging size and allowing coupons to reduce the price is kind of an easy way to invite people into the use of these products. There are jurisdictions that have banned

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flavoring. We know these flavors are noxious, and flavoring is used to make them more palatable. So again, a number of strategies that have been considered, all of which we are considering also in the context of the retail licensing.

Just want to review the three actions that we as the Department of Health have asked our Board of Health to consider undertaking. We know that we do not want to create another generation of people who are addicted to nicotine and battle lifelong addiction with the substance. At a minimum, we want to establish a minimum sales age for these products. If adults choose to use them that is their prerogative, but youth -- we want to make sure we keep them out of the hands of our youth.

We also know the vast majority of adults will not use these products, especially because we know so little about what is in the products both that are being inhaled and also expelled that we want to make sure people are not inadvertently exposed by other people using the products. We are looking to expand e-cigarettes in the smoke-free workplace policy. We are also encouraged by some conversations that are happening in Salem during this session that would that expand the Indoor Clean Air Act to include e-cigarettes and thereby make it unlawful to use these products anywhere tobacco can't be used.

Finally, we know there is a lot of work to do in the retail environment. We know that the vast majority of retailers would like some help and support. We know of many retailers who are choosing not to sell any tobacco products, and so we'd like to encourage that. For the ones who choose to sell tobacco products, we want to make sure they understand what the laws are and we are available to support their adherence to those laws. That is the end of my remarks, and we're happy to take any questions.

**Hales:** Thanks. Actually, if you could go back to your three policy columns there. Thank you very much for doing this. As somebody whose children are all now 20-plus years old, I'm not having to think about some of the dilemmas that some of you might, and therefore I'm also not aware of the pressures -- at least personally not as aware as I would have been, say, 10 years ago -- of the pressures that kids are under. So, I really appreciate this eye-opening -- for me, anyway -- presentation.

Does the Board of Health have the legal authority to do these things now, or do you need legislative changes in order to have that authority? In other words, to establish a minimum age for purchasing, and also the column that's missing that I want to hear more about, which is the retail regulation and licensing column. Do you have the authority you would like to have?

**Kafoury:** That's a great question. We do believe that we have the authority and that's why we're going to be taking action for having a first reading on the first two pieces of this tomorrow. We're asking the other cities in Multnomah County to participate in whatever way they feel they need to to appease their constituents and their lawyers. Some feel that they need to positively affirm our ordinance, some feel they need to pass their own ordinance. We just want a uniform standard, and that's why ultimately we are spending time in Salem lobbying the legislature. Obviously, all of these issues are best if it's in a statewide context.

The licensure piece is a little more complex than just saying, you know, thou can't sell tobacco or e-cigarettes to minors. So, we're hoping the legislature takes action. We're going to wait until the session is finished, we're going to spend a lot of time lobbying, and then this summer we'll look into setting up a program of our own if the legislature does not take action.

**Hales:** OK. Other questions? I have some comments, but.

**Fritz:** What are you going to set as the legal age for being able to buy this stuff?

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**Kafoury:** We're looking at making it consistent with the tobacco regulations, so it would be 18.

**Fritz:** Did you think about making it 21 like alcohol?

**Kafoury:** We've had conversations about it. We haven't had a lot of comments from the public about the age difference.

**Fritz:** It's interesting -- I learned as part of our marijuana discussions that marijuana affects brains disproportionately up to 25. And so, especially knowing how addictive this particular form is, I'd be interested to see if we could push the age limit. We have not yet had a discussion about whether we want to formally adopt years. Are we covered by your ordinance unless we say we're not?

**Kafoury:** You should talk with your own legal counsel. We believe that acting as the Board of County Commissioners on policy directions from the Board of Health that you do not need to. You're underneath our rules and regulations, but that's something that you should talk with your legal counsel about.

And you raise a really good point, which is about the legalization of marijuana. One of the things that we hadn't -- I don't think, maybe you smart people have -- but I hadn't anticipated when we started this conversation that teens being smart and wily are way ahead of us and they already are smoking hash oil in their e-cigarettes in schools. And we've heard from some of the school resource officers who confiscate these products on a daily basis from students that kids are smoking them in school in class.

**Hales:** Well, we'll check with our city attorneys, but I believe personally that the County Board of Commissioners and the County Board of Health have full authority to do this without cities having to do anything. If it's helpful to you for us to pass other ordinances of our own, you know, obviously I'd be interested in having that conversation. But I don't think we have to act to affirm authority that I believe you have and that this is one of those cases where there's a fairly clear assignment of responsibility for public health to one government, namely the County, and not to another, namely the City. And again, if we need to do something to back your play, I'm certainly interested. Like Commissioner Fritz, my personal feelings are go stronger, go more aggressively in this arena with our support - - I suspect our unanimous support of this Council.

I'm very interested in the retail licensing. In other words, I don't think a free market is a good way to address an addictive substance. And frankly, I'm a little frustrated that we're even having this conversation. If we had an effective Food and Drug Administration in this country, you wouldn't be having to take this on at the county level, but unfortunately I guess we don't. But anyway, I think we have to get pretty aggressive about the marijuana issue in terms of licensing, and I think the traditional approach which you sort of mentioned in passing doesn't really work -- and that is to draw circles around things and say, don't locate within this circle and that circle. I think we need to be much more directive and say, we want these kinds of facilities here, here, and there and actually nowhere else, and figure that out not only on a public health basis but on a land use basis.

And let me go off on a little bit of a riff here -- but I think it'll be helpful. For example, there are places where we want land use change. Let's say a roadway somewhere in Portland where there's an old trailer sitting out there and they're selling used cars, and it might be good to have a mixed-use building on that side. We don't particularly want to make it economic to keep the old trailer out there and say, sell marijuana, instead of redeveloping that property. So, we have a land use interest in not having new economic uses applied to land uses that we're trying to phase out. And I think this issue comes to bear as well -- that if it's possible to make a high rate of return from selling products that are fundamentally unhealthy but are lucrative, that might contradict some of our development goals as a city and a county.

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Again, my belief is that we're going to have to be much more than traditional regulators and say, "don't be near here, don't be near there" but to say actually "you're a particular type of use that we want to assign to certain places in the landscape where we believe it will do the least harm." And I don't exactly know how to finish that paragraph now, but as you can tell at least in my mind I've at least started it to say, hmm, we better get this right. Because there are very powerful economic incentives behind marijuana and behind vaping, and I think we'd better get pretty smart and aggressive about it.

So, I'm really glad you made this presentation. As you can tell from my comments and other comments here, we're saying please, go, we're behind you, but we also may need to do things in concert like the marijuana issue where we have staff in my office and others working. Other comments?

**Fritz:** Your riff set off something in my mind, and that is since these products are not currently regulated under state law, could you impose a tax on them? Is a probation on taxing also not in state law?

**Kafoury:** That's a good question. I think potentially we could. One of the challenges with taxation and this product came to a head last legislative session and the reason that they're not illegally currently for minors is because it got caught up in a taxation issue. And it was our belief that we should move forward with this first and that second, if we want to tie that into the taxation of tobacco products as well.

**Fritz:** Right. But if they don't manage to move on that, maybe this summer you could add a further economic disincentive by taxing the heck out of it.

**Hales:** Mm-hmm. And again, whether that's something the county should do under your public health authority, that would be cool. Maybe we do it as a city, maybe we do both. I think those conversations ought to continue. So yeah, using tax policy as well as regulatory and land use policy to address this issue is all I think fair play as far as I'm concerned. Other comments?

**Novick:** I will encourage you to consider raising the smoking age. In fact, I would suggest raising it to 45, because I think if you're going to kill yourself, it should be an informed decision. And I think at 21 you don't really know yet what your life is worth.

I was curious about the high violation rate in terms of selling to under-aged people. What are the penalties for that? What enforcement mechanisms are there? What enforcement resources are there for that? Is there -- I kind of assume you would be the ones to police that, but actually I'm not aware that there are Multnomah County underage sales police. So, what are the mechanisms that are available?

**Vines:** I can offer a small amount of information about that. In Oregon, it's the Oregon State Police who have the jurisdictional authority to monitor the sale of underage and obviously, they are often distracted by other things. I would say it's not a very robust enforcement strategy that we have here in Oregon.

**Hales:** Really? Wow, I'm learning a lot in this discussion.

**Saltzman:** Is that a change? When I was a County Commissioner, we used to have sheriff cadets do underage things. In fact, I went along on some of them.

**Vines:** I couldn't speak to that, I just know what the enforcement strategy is today.

**Hales:** Yeah, because the Oregon State Police don't work in the urban environment, they're working on the highways in between cities. And that's what they do, and that's fine. But to expect them to do this kind of police work is to me bizarre. So, that's another glitch.

**Kafoury:** And I think that one of the problems that we've found is that because there's no retail licensure program, we don't know -- you can guess at 7-11s and Fred Meyers, but you don't know which mom and pop shop unless you're actually out driving up and down the streets to find out, you don't know who's selling these products. And I'm sure you've all

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seen pop-up vans, like the foot carts that sell tobacco products. In order to make the enforcement program effective, you need to have the licensure piece tied together.

**Hales:** Mm-hmm.

**Saltzman:** So, were you talking about Oregon State Police only being authorized with respect to e-cigarette sales?

**Vines:** To tobacco -- well, at this point, there is no enforcement for e-cigarettes.

**Hales:** Yeah, nothing there.

**Saltzman:** Something must have changed because when I was on the County Commission I went out on stings with sheriff cadets --

**Vines:** I'm going to look over my shoulder at my staff. [laughter]

**Hales:** No one's volunteering to answer that question.

**Kafoury:** We'll look into that, that's an important point.

**Vines:** Did I get it wrong? Come on up, Kari.

**Hales:** Pull up another chair if you want.

**Kari McFarlan:** I'm Kari McFarlan with the Health Department.

**Vines:** Did I get it wrong?

**McFarlan:** So, to answer the question -- it's a bit nuanced but Synar -- and that is a program at the state --

**Hales:** Synar?

**McFarlan:** Synar. And that is a program named after a former federal congressman who was interested in looking at the illegal rate of sales of cigarettes to minors. And so here in Oregon, we administer the Synar program which does do monitoring of illegal sales of cigarettes. The Oregon State Police are actually retired Oregon State Police officers that go out and do these sting operations with a minor decoy.

**Vines:** My apologies for the confusion.

**Hales:** That's OK.

**Saltzman:** OK, now it adds up.

**Fritz:** Are they funded through the county?

**McFarlan:** Through the state program. So, to get back to Jae's comment about under-resourced -- that's why our enforcement system is not currently robust.

**Saltzman:** I just have one last question, and that was on the retail licensing. So, does the County not have the authority to do retail licensing on tobacco sales?

**Kafoury:** We're looking into that issue. We think it is a lot cleaner if the legislature takes action and it's a statewide program so that folks in Multnomah County who don't have to have a license when you don't have to across the border in Clackamas -- having statewide is obviously a better idea. But if they don't pass something in Salem this session, we're going to look at doing something on our own. It's also a longer process, as I said earlier, because we want to involve the retailer community in the conversation so that what the level of fee is set up, we need to find out what level of education and information they would like from the County -- so all those decisions will make up for a robust program that is adhered to.

**Novick:** This may be a question for Ms. McFarlan, but it may be that the retired Oregon State police officers have historically been responsible for enforcement, but are the County and City precluded from doing our own enforcement? So, theoretically we could decide to enforce the laws ourselves.

**\*\*\*\*\*:** That's right.

**Hales:** I'm not an attorney -- although we have some on the council -- but we're a home rule city and you're a home rule county.

**Kafoury:** Right.

**Hales:** So, we each have a charter, you have a charter.

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**Kafoury:** But I think it's been a question of finances. That most of the time when you have a retail licensure program, you're using those funds to hire the staff to go out and do the enforcement and education. They go hand in hand in most cases.

**Novick:** That's what you're anticipating, that first you do the licensure and then we can actually fund some enforcement?

**Kafoury:** Exactly. Enforcement and education.

**Hales:** Any other questions for this great panel? I want to say thank you for bringing this up as an issue here in our discussions and obviously for the Board of Health and for the community at large, it's really important. And I hope you'll call on us to work at both an elected level and a staff level in cooperation on this. Again, we're having to delve pretty deeply into questions about marijuana right now. It seems to me that that is connected to these issues. I suspect we'll have a lot of the same retailers involved if we do nothing, and do nothing doesn't sound like a good option here. We want to encourage you to be aggressive on this issue with our help and support and also to do the detailed work at the legal and technical level to make sure we do this in a smart and effective way. So, call on us.

**Vines:** Mayor Hales, could I leave you with one more technical piece of information? And it has to do with the smoke-free workplace and folding electronic cigarettes into places where tobacco use is already prohibited.

As we've heard public comment and I've sort of participated more and more in this conversation, I just want to make sure you understand that when people say, no, no, electronic cigarettes, it's just water vapor, there's no risk to secondhand exposure -- that is not true. And the science is limited, but there is a substantial emerging body of evidence that suggests that there are all kinds of chemicals in these liquids that are exhaled and that can be inhaled by bystanders. So, given the choice, I would rather stand next to someone smoking an electronic cigarette rather than a regular cigarette based on what we know now, but I just want to be very clear that we not only want to not lose ground with our youth in renormalizing smoke behaviors by including electronic cigarettes in smoke-free workplaces, we also want to -- as Jae said -- we want to protect people who choose not use these products and don't care to wait the years to decades that it's going take to sort out what's in them and determine the health risks that are there.

**Fritz:** As the author of the City's fragrance-free workplace policy -- [laughter] -- does the smoker of a blueberry cobbler e-cigarette have blueberry cobbler breath? [laughter] It's actually a serious question.

**Vines:** Most likely.

**Fritz:** As we found out when we were doing the fragrance-free policy, fragrances are proprietary, too, and you can't find out what's in them. So, I would suspect some of these flavorings are also odiferous -- I mean, you said they smell good to kids -- so that again might trigger harm to bystanders, even if it's not cigarette-smoke type. It may be a more pleasant fragrance for some people, but for some people it may cause an asthmatic attack or other allergic reactions.

**Vines:** Right. And part of it is they're so unregulated that when studies take a few off the shelf to actually see what's in them, you can only comment on what's in those bottles on that particular day. But we're seeing different kinds of organic compounds, carcinogens, heavy metals, particulates. So again, with tobacco the burden was really on the public to wait for the science to catch up and then for the policy to catch up. We have a chance to do this right by including electronic cigarettes in places where tobacco smoking is not allowed and to really again protect the people who are choosing not to use these products.

**Hales:** I'm glad you used that phrase, because obviously the burden shouldn't be on the public. And again, it's frustrating to even have this conversation. Something's going to be

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inhaled and ingested, and if the manufacturer of that product is not willing to disclose in detail what its contents are, then it is reasonable for the community to assume that those contents are toxic until they're proven otherwise. We don't have to prove that someone's product is safe; they have an affirmative obligation to prove their product is safe. And if they are not meeting that responsibility, then all the more reason to regulate.

I think we as a community and you as a Board of Health and we as a City have every reason to be aggressive on this issue -- frankly also given the history of all of these issues in the past. It's not like the folks that brought us tobacco were entirely transparent on what was being done to that product when it was being manufactured and marketed. So, I think we have every reason to put the burden of proof on the other side of the counter.

**Fritz:** You'll be glad to hear that the tobacco-free Parks policy that we're going to be taking up in a little while includes e-cigarettes.

**Kafoury:** Great. Thank you.

**Hales:** Thank you very much. Anyone else like to comment on this presentation? Please, come on up. Good afternoon.

**LaQuida Landford:** Good afternoon, Mayor. Good afternoon, Commissioners. I definitely think --

**Hales:** Oh, put your name in the record.

**Landford:** I'm sorry -- LaQuida Landford. I'm really happy that this conversation is being brought up as we're going into conversation about our new marijuana law that's going to happen this July. And as a person in the community that does a lot of advocacy and working around youth, or just being -- I take public transportation wherever I have to go, these sort of things are what I have to see. It is a very important conversation that we definitely need to be looking towards with our youth and the fact that they can and currently are using it for marijuana. It's just being labeled as like when you go to the store like a blunt paper with all these different flavorings. The conversation was good to be a part of and actually hear and learn a little more about that as we talk about prevention opportunities in the schools, and more prevention opportunities around what it can do to a youth's brain in that short period of time.

One thing I do not like seeing -- and I was talking to [indistinguishable] -- about seeing a parent smoking and they have their kid in their hand. And that baby has no -- nothing can be said but you're just smoking away. So, with us being able to have restrictions around this, this would be good for our community and going forward with some of the things we have to deal with on the health level.

**Hales:** Good, thank you. Thank you very much. Anyone else? Then can I have a motion, please, to accept this report?

**Fritz:** So moved.

**Saltzman:** Second.

**Hales:** Any further discussion? Roll call, please.

**Item 166 Roll.**

**Fritz:** Thank you very much for getting on this and being ahead of the curve -- or catching up as quickly as we can. I learned a lot this afternoon. Aye.

**Saltzman:** Thank you very much for your report and your leadership. Aye.

**Novick:** I learned a lot, too. Thank you very much and godspeed.

**Hales:** I look forward to working with you on this and helping support good public policy whether it's made at the county board or in city councils, including this one.

One other point I want to get into the record is there's also -- we have a public safety responsibility at the City just like you do with the County, and the manufacturing of butane hash oil is a public safety menace in this country, both in terms of deaths and

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injuries and the leading cause of residential fires in a number of areas around the country. It's such an explosive substance and it's actually a big public safety issue, as well. I hadn't myself made the connection that oh, that's how that substance gets used, it gets put into one of these vaping devices and then inhaled. So, we've got another issue there in terms of the hazard of these largely unregulated addictive products. I'm really glad that you're on this, we're looking for toward working with you to do the right thing. Thank you.

**Novick:** Mayor, I forgot to vote.

**Hales:** Commissioner Novick, please.

**Novick:** Aye.

**Hales:** And I'll do that too -- aye. Thank you very much. We're a little bit ahead of schedule. I don't know if our presenters are here. We'll have to take a five-minute break and resume at 2:45.

At 2:41 p.m., Council recessed.

At 2:49 p.m., Council reconvened.

**Hales:** OK, let's come back to order. Item 167, please.

**Item 167.**

**Hales:** Great. We're very pleased to welcome Dr. Hopkins and Dr. Smith here this afternoon to talk about this collaboration. Charles Hopkins is the chair of UNESCO's Education for Sustainable Development Project, working in collaboration with the Greater Portland Sustainability Education Network working to educate teachers about sustainability and therefore everyone else. So, we appreciate your work. You're here to update us today on the work being done and how Portland can be a constructive participant in this project. We're very glad you're both here. Welcome.

**Charles Hopkins:** Thank you very, very much. I'll take about 10 minutes to paint a larger global picture, and then Kim will take about 10 minutes to talk more specifically in the Portland context. That's sort of the plan and then we'll leave a bit of time in case there are some questions for us.

In that larger picture, most people are aware that we are now moving globally from the millennium development goals and trying come up with new global vision. It's called The World We Want, and we will be creating and countries will be sort of voting on the new sustainable development goals. Now, the problem is that at the international level, things are moving slowly -- negotiations and so on back and forth. But the really good news is that at the local level, regional, city level, state level -- things are moving much more quickly. Because it isn't a win-lose thing, it's not like we'll give up our coal-fired plants if you've give up yours, it's much more at the local level.

This program is called The World We Want, and there are now 17 large new development goals that they are working on. But inherent within them is the role of education, public awareness -- training programs in general. And the largest gathering of heads of ministries of education, deputy ministers, secretaries of education, just happened recently in Nagoya in Japan, where they came together to form the Aichi-Nagoya Declaration on how countries should be using public awareness, public education, understanding training programs both in the public and private sector to try and move forward. Kim was the head of the U.S. delegation there and is just finishing the report to the State Department on the U.S. role within that.

As we move forward out of that declaration -- and you have a copy there -- one of the issues is that we should be revisiting and looking at the purpose of our education programs. And that's just not K through 12 but it is public awareness, public education,

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etc., and there is a roadmap that countries have agreed to -- and I'll come back to that in a moment.

The idea of education, public awareness, and training first emerged in Rio in '92. Because they realized in order to move forward and address issues, you need an educated, knowledgeable public. There were four components to it. One is access to quality basic education. I mean, there are still -- roughly the student population of the United States for whom there is no school in the world. Then think of the number of students who mentally have dropped out of school -- they may be there, but it's not serving them well, so that's one thing.

The second thing is reorienting our existing education -- it's largely our most educated countries that are leaving the deepest ecological footprint. So, the idea of repurposing, rethinking, reevaluating and so on.

A large one is this public awareness and understanding. It's extremely difficult for cities or countries to even move forward if you don't have the political support. And even corporations -- it's no use building a Prius if no one will buy it. So, we need a knowledgeable citizenry in order to move forward and that's part of what we'll be talking about now.

There are different levels of implementing this. Unfortunately, one choice that too many are making is to ignore the idea and focus on math and language and the K through 12, etc. If you look at this as working your way up, learn about sustainable development, then the idea of repurposing education -- for instance, in the province of Manitoba, the goal of the education system is to produce people who will live in a sustainable manner. In Finland and so on -- we can go through. But sort of the highest level we can envision now is aligning our public awareness and education and training programs within the goals of the community itself, and we refer to this as a regional center of expertise in education for sustainable development of which Portland is one.

Now, the idea is this. If you look at it, it's two groups of people that we try to bring together. This is a program that started in 2005 and is now spread around the world. On the one hand, we are trying to bring together the messengers in the community -- so, formal education from preschool through to higher education -- together with NGOs in the community, museums, science center, etc. -- those who inform the general public, together with the people who know what are the social, environmental, and economic issues facing the community now, and what's coming. So, urban planners. It could be researchers and universities. It could be the private sector. How can we get that information into the hands of the messengers so that our school systems and so on are talking about locally-based real issues?

Cities and towns are saying, what is that if we wish every citizen knew about our own goals and what we are trying to do in the city? And how can we align in a collaborative way? Instead of all these random acts of sustainability going on, how can we bring the messengers together to work in a synergized way with the urban planners, the city, and the so on -- it could be higher education researchers, etc. So that's the big picture.

If we look below and outcomes, where we've been doing this for roughly 10 years, and we find there students within the schools are much more knowledgeable. They take interest because they're being taught the core curriculum but it's based in local reality. It's place-based, it's hands-on and engaging students in actually doing things.

Now, these regional centers. Let's say there are roughly 135 of them, and it is a project of the United Nations University.

**Fritz:** Is that 135 in the world or the United States?

**Hopkins:** The world.

**Fritz:** And how many do we have in the United States?

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**Hopkins:** Four, I believe.

**Kim Smith:** No, we don't count Texas. Texas is no longer active, so we have three.

**Fritz:** And Portland is one of them.

**Smith:** Yes, Portland. And I'll explain some of the history on that.

**Hopkins:** Good.

**Fritz:** Sorry to interrupt.

**Hopkins:** One of the things that the regional centers are trying to achieve -- UNESCO's global action program. We had a UN decade of education for sustainable development that went from 2005 to 2014. It came to a close in Aichi-Nagoya, where Kim was, and the new program that's replacing it is called UNESCO Global Action Program on Education for Sustainable Development.

Now, it has five priority action areas within it. One is advancing policy. It is so very, very difficult to try and move forward for people to do things if there isn't a policy that funds them, gives permission, and so on. And so, we're looking at how we can embed policy in programs.

The second one is transforming whole institutions. Instead of just greening a school or greening a university, it's looking at what gets taught, what gets evaluated, what gets funded, etc. Or a private sector or a business, or a city. How do you look at this in its entirety in its purpose?

The third is improving the capacity of educators, higher education included. That's my particular role within UNESCO, is reorienting teacher education.

The fourth one is working with youth and building youth councils and so on.

And the last one is what really applies to why we're here. And that's looking at how to build more sustainable communities. What is the role of education, public awareness, and training programs in trying to build more sustainable communities? So, that's the fifth one.

As we point out there -- it's very difficult to see, but that is a world map, and on it you have the various ones of which Portland is fairly new. And yet, it is quickly risen in visibility on the international level. Part of it -- just in the few days that I've been here and meeting with different groups, I can see that it is kind of embedded in the DNA of the community. There is a much larger concern that is here. So, I'll turn it over to Kim to carry on. Thank you.

**Smith:** Thank you very much. So yes, we are an RCE, though I do want to identify we have a local name, the Greater Portland Sustainability Education Network. We felt that captured a little bit more what our goal is, to create a multi-sector network focused on -- I know you were talking about training teachers, but it truly is formal, as he said, informal, and non-formal education. So, also working with media.

One of the things Portland has done that is quite distinct than a lot of the other RCs around the world -- there are many structures that are different models, but because we have very purposely integrated, if you go -- we have the handout on GPSEN and the gap. So, we say GPSEN. You can link on our GPSEN page and see all the partners. We have partners from all across the sectors. Some are still siloed, you know. One of the benefits we have already -- so, two years ago when we first started to apply, you, Mayor Hales -- there was a letter in the application that was sent to you guys early on. So, with Multnomah County and Metro and lots of different folks coming together and said, we really can increase our collective impact if we created network like this to have a more sustainable future, hopefully just, equitable, healthy, those kind of core things, too. Because we really are an E4 model: education, environment, economics, equity.

Our four main goals you can see there. Within the work, one of the main things -- and even coming today and meeting with you -- we really want to make sure -- I mean, we

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understand what's coming from the global action program. I have this document, yes, thank you for recognizing that. I led the U.S. delegation to the UNESCO conference and they said, RCEs, you've proven yourselves for 10 years. Portland, you're new, but man, you've proven yourselves -- how can you help implement the gap? Really, we want to make sure the work we're doing is aligning with your initiatives, making sure you know what's the Portland Plan, what's going on with our Climate Action Plan, Metro level, all of this.

The greater Portland region, our region, are the four counties. So, Multnomah, Clackamas, Clark, and Washington. When we see greater Portland, we're using the data -- classic intertwined Coalition for a Livable Future are those four counties. We want to ask that for you -- with you -- how do we align -- how can these kinds of networks increase the collective impact with our region working with some of the things you're trying to do? How would we be able to leverage existing resources with these cross-sector partnerships? How can we step outside those silos? And I know a lot of us are working on this kind of model, but this is where the UN came in and said this is something that is proven to work.

Where can we find some synergies? We all are tight for cash, tight for resources, tight for time. So, finding ways we can create win-wins, collective impact through efficiencies, really finding some efficiencies. And of course we have a strong partnership with Hands on Greater Portland, and I know a lot of you do volunteer work, so how can we also increase civic engagement? So, those are our five main objectives that GPSEN established when we started.

I just want to give you a little bit of an idea about the structure, so where you might fit in but also so you know who's doing the work. We have over 120 organizational partners already, 300 individual members. And so around, you can see the stakeholders -- really, it's all of our community, right? But these are the voices that have come in and advised how to set up our work. We have a coordinating committee -- about 15 people that actually represent all the sectors and really identifying the bylaws and working on projects.

But the four core circles out there, those are the subcommittees that really I depend -- I'm the coordinator for the RCE, for GPSEN, but I really depend on this team to coordinate the partnerships through governments, doing the promotion of events through outreach, developing programs and trainings, and working with research and development folks generally that's coming out of higher ed. So, PSU, etc. UP, Portland Community College is a big partner -- they've been funding us so far. Checking time here, I see folks coming in.

So you guys have this -- this is a document -- you guys are able to ask questions around this, but I also want you to be able to reflect on these later so I don't need to go through every point, but I want you to see what kinds of tangible tasks are really being done. So, the governance committee really has the funding tasks in addition to managing such a complex relationship. I gotta tell you, one of the biggest challenges -- you know, there are other cities around the world -- their challenge is building things from scratch. Ours is making a container big enough for what's already happening because we already have so many players. So, the governance folks are trying to do that.

In terms of programs, lots of training, exhibits, forums that we've had already. Because we've already been actually building over the -- we're formally accepted for a year now. And then Hands on Greater Portland -- we've been doing volunteer projects. Proud of our virtual youth program as well. Several Portland schools have been involved with that.

If you're interested, of course, the outreach. If you would some like more things tweeted -- which I'm sure you have plenty of [laughs] -- but there you go. But we're really happy to have all the partners actually on a GIS map that students at PCC are managing.

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And then, Metro has funded a grant to actually do a full asset map of who are all the sustainability providers across our region, and how can we find each other? How can we actually do a network analysis to show that we have increased our collective impact? Alright? So, that committee is responsible for that big grant, and we have that for the next two years.

Finally, just to put it in context. The way the UN generally puts the United States, we are with Europe. But UNESCO and the UNU have the RCs in the Americas. So, there's sometimes collaboration going on between Canada -- so, North America, Central, and South America. If you look at the map again, you can see where the RCEs are located. So we try to replicate good practices and support each other and learn from each other. And RCE Grand Rapids in Michigan -- their mayor is actually their lead. It's actually in their city. Anyway, the next RCE of the Americas meeting is in Grand Rapids, by the way, if you're interested.

We submitted some commitments to UNESCO for the global action program, and Chuck said what those five were -- you saw that map. We can check off number one. We're here, we're talking, this is good. [laughs] Number two, we're really trying to formalize GPSEN and then working with PCC, seeing all of the partners -- PCC is doing tons of -- you guys know. You know how much PCC does around transformation.

**Fritz:** Well, Dr. Smith, you work at Portland Community College, right?

**Smith:** I should probably have said that -- I am an environmental sociologist and I'm a sociology professor at Portland Community College Sylvania. I've been there 19 years. Thank you -- in addition to being coordinator.

**Fritz:** Portland Community College has been taking the lead on this?

**Smith:** Yes.

**Fritz:** And is that going to continue, or what are the next steps?

**Smith:** That is a very good question. They want to be a core partner. They've been funding it all individually but there's 120 different partners. This is their bridge year, and they're like, OK, they've been giving me one course release to run an organization the size of four counties and with all these goals. But at least they've been funding us for a while. And they are saying in June that we have to reorganize and find new funding structures.

**Fritz:** It's remarkable that so-called junior college or community college have taken such an amazing role in this international organization.

**Smith:** Well, community colleges are an important nexus between the sectors. K-12, higher ed, also industry workforce training. So in many ways, while sometimes community colleges don't have as high as status, they certainly model this network. And so, it's worked very well having them being one of the core leads.

**Fritz:** Do you think Portland State University is going to want to step up and help out?

**Smith:** Well, they've always been a partner -- we had one of our first meetings there, and they provide staff capacity but they haven't provided funding. But we'll be looking into that. Other questions? You can see these are our goals and that actually brings us to the questions. Anything else?

**Novick:** I have a big dumb question. When you're educating people for sustainable development, what are you educating them about? What do you want them to learn?

**Hopkins:** Well, if you go back to those four areas, one of them is trying to improve the quality of the education system itself. So, quite often what we do is embed local social, environmental, and economic issues. I've just finished some research in 16 countries -- these are the countries most respected in their school systems. And where regions have taken this approach of using education for sustainable development as a delivery method, their test scores have gone up, children are better prepared, and so on.

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So, you're asking a really good question. That first one is access and retention in quality education. The second one, though, is reorienting. Why are we educating, and therefore what should be taught? What should be tested? What should be funded? How do we prepare people for the world they are going to inherit? That's just informal, then there's the training and the public awareness and the building part, which I think is more applicable for cities -- because you have the formal education component, but it's the city itself that has a hard time moving forward if you don't have political support.

**Smith:** May I answer a little bit more? So, from the professor hat too, we've worked on a lot of -- is it curriculum? Is something embedded in a discipline? Really, it's not. It's not just "let's have a sustainability education class." It's "how can we infuse sustainability across all disciplines with skillsets that citizens need, that youth need, lifelong learners need -- critical thinking, principles, and ethics of sustainability, right? These larger kinds of questions one might find in social sciences and the humanities, as well. Not just the STEM classes, although those are essential in terms of technical green jobs and all of that. But really, the broader kinds of things around problem-solving. You know, those types of broader things -- what does a sustainable future look like? That question, the future we want, or the world we want. Finland is doing a huge program called the Finland We Want. So, I'm inviting you to say, what's Portland want?

**Novick:** When I hear the word sustainable, I think about environmental stuff because the biggest environmental thing I can think of is climate disruption. When I think about educating for sustainable development, I think about doing things like telling people, it's not enough to eat locally-grown food because it still could be carbon-intensive; you should still eat lots of lentils and less beef. So, that's the kind of thing I think about when I think of educating for sustainable development. But that's not everybody's definition of sustainability, so I'm still a little fuzzy on what you think of as sustainability, and what particular kinds of education are relevant to it.

**Hopkins:** It varies according to the region or whatever. For instance, in the Middle East, one of the huge problems is unemployed youth. So, it's how do we better prepare people for the workforce? In other situations in Europe, what is rising now terribly is racism and exclusion with the number of illegal immigrants who are forced in there out of Africa. In other cases, yes, it's environmental. But you never just deal with one. What are the big issues in your region, and how can education, public awareness, and training address some of that? It won't address them in their entirety. You need policy, you need funding, you need legislation -- you know, many different things. But you need to keep the general public on board, and you need that kind of leadership coming especially from higher education. Kim, do you want to add to that?

**Smith:** I do, thank you. You're also saying, what is the content? It's actually really problematic word, it's actually pretty dated -- education for sustainable development -- it came out of that '80s development movement and Dr. Hopkins helped create education for sustainable development. I mean, he really helped create the RCEs -- thank you. But even in the United States, you're going here more often "education for sustainability" or "well-being" or "resilience." The words are different now. It's always going to be -- we're emphasizing this, too, really -- social sustainability, economic sustainability -- it's a problem that people think environment, because what does a sustainable -- I know you're all doing this work, so, social and economic sustainability is always key in there. So, those partners -- we're actively working with those groups in the greater Portland region, not just the environmental groups, not just intertwined. You know, those kinds of networks. Does that answer your question? I know there's more. It's complex. And honestly, I don't really like the word sustainability. Because when you think about it, what is the goal? What is the future we want? To sustain? To just get by? You know, it's like, no, I think we'd like to

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thrive. I think it's really valuable if we can identify, what are these missions you worked so hard in defining? And then how -- and again, this is not education about -- you know his stair steps up? It was not education about sustainability or sustainable development. It's not just learning about the health of the frogs and the scary issues we're facing right now with climate change. It's education for sustainable development. How do we use this mechanism, this tool to help us all achieve the future that at least we have a vision for? It doesn't guarantee that we're going to get there, but goodness, this is a good way to try. Other thoughts?

**Hales:** Commissioner Fritz, anything else you'd like to add to this front end of the presentation here?

**Fritz:** This is very helpful and it's wonderful to know we're one of 138 globally -- that Portland is a center for excellence and expertise and to know there's this mechanism for the partners to talk to each other. I know you're presenting at Metro tomorrow. Their grant will enable you to map those assets and connect also. So, I appreciated this conversation because sustainability is more than sustainability, it's thriving and it's looking at not just solar heating and recycling as sustainability concepts, but equity and race and a number of the other challenges -- which you're right, that we talk about all the time. It's good to know we have international support for that.

**Hopkins:** And if I could just reflect back -- on behalf of UNESCO and United Nations University, I thank you for giving us this moment with you. And I thank you for the work that has gone into the GPSEN and what could happen in the future. And thank you.

**Smith:** And we'll be meeting with Jackie Dingfelder and Michael Armstrong with Bureau of Planning and Sustainability and so for more kind of the nuts and bolts kinds of questions they had asked for a meeting. We thank you, Amanda -- or, Commissioner Fritz -- for inviting us to City Council as well. I know you're very busy so I'm very glad we got to meet with you in addition to Michael and Jackie.

**Hales:** Thanks very much. Thanks, Commission. Since it's a presentation, I don't think we have to take a -- we can just thank them for their leadership and help. Thank you. [applause] Good to hear from you, and good to hear that the work continues. Thank you. We will move on to our final item of the afternoon -- sorry, did you want to comment on this? Sure, come on up.

**LaQuida Landford:** Good afternoon, Mayor. LaQuida Landford. Today is a really good day for me with these topics that I'm listening to, so I dressed up today for you -- usually I don't dress up. but I didn't know if this presentation was going to be presented.

What I'm hearing and what I understand from sustainability is there was a project I came up with called Project SEEDS: Sustainable Environmental Education Development Steps to agriculture to what solar looks like as we talk about where we're going with our future and renewable energy and things like that. We know that Portland is a very unique city, and also we have a lot of recent immigrants that live here in our community. The Somali community, the Hispanic community that in their country are used to farming, and there's older people that feel like maybe they can't get a job or anything like that or are going back to school because they don't understand, you know, but that's speaking their language and that's also helping them continue to do what it was that they were doing when they didn't have an opportunity to look at school. So, these training programs will be very much helpful on a smaller level when it comes to a community like New Columbia and Hacienda area as we go forward as we're building and moving. I just wanted to say that I do understand a bit about the sustainability and also service learning programs in the school to get the youth involved. Because we're talking about their future going forward, and how we can have them to understand how important the environment is to them -- as we spoke about e-cigarettes and our health and these different topics.

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I just wanted to mention that so they can hear I believe this will be something good. I don't know much more in-depth about it, but I will try to get with them and find out how I can talk about public awareness. That's something we don't have too much of -- to let someone know what their future looks like for them or their family. When we talk about language barriers or breakdown. So, thank you guys so much for that presentation. I thought it was very useful our community here in Portland and being very -- and we're going with Mayor Hales with what he's doing with immigration, 15 Now, racism, and all of these things. I think you're doing a great job and these things are very important. Thank you very much.

**Hales:** Thanks very much.

\*\*\*\*\*: [inaudible]

**Hales:** Good. And the website is.

\*\*\*\*\*: It's on the handout.

**Hales:** We'll put it on the record -- better tell me though.

\*\*\*\*\*: [www.pcc.edu/about/sustainability/regional-center-expertise](http://www.pcc.edu/about/sustainability/regional-center-expertise).

**Hales:** Wow. OK, we will make sure we put that on the written record, as well as in the vocal record. That's a lot. That's expertise, not extra peas. [laughter] Yes, do, thanks. Thanks a lot. Let's move on to item 168, please.

**Item 168.**

**Hales:** Commissioner Fritz.

**Fritz:** Thank you, Mayor Hales. It is my honor to introduce this ordinance today. Our parks help build community, they promote health and wellness, and increase the livability of our city. And I believe that having a tobacco-free environment in park would be a good thing for Portland.

Tobacco-related diseases remain one of the leading causes of preventable death in Oregon, and this policy would support tobacco control efforts currently taking place across the United States supporting people trying to quit and discouraging others from picking up a harmful habit, particularly children. Our parks are places where everybody should be welcome, and we already ban alcohol use in parks. Expanding the tobacco ban would be consistent with a place for everybody to enjoy. Previous Parks Commissioners, starting with Commissioner Saltzman, have banned smoking in some Portland parks, including Pioneer Courthouse Square, playgrounds with picnic areas. Commissioner Fish expanded the ban to Director Park and the North Park Blocks, which was under my jurisdiction. So, we've got this mismatch of places where you're allowed to smoke in parks and places where you're not allowed to smoke.

If I was to state it quite succinctly, the problems we were trying to solve are parks are supposed to be places that are healthy. Healthy parks, healthy Portland, healthy Portlanders. Having the inconsistent rules is a problem. And finally, the passage of the recreational marijuana means that if we allow smoking in park, marijuana smoking under the ballot measure passed last November is only to be allowed inside personal residences. You're not allowed to smoke marijuana in parks the way you're currently allowed to smoke cigarette products in parks, and so I don't want anyone to be guessing what people are smoking. I think that this is a sensible policy which sets the rule very carefully. And that also answers the question of "why now?" This ban, if adopted by the council, would go into effect the same time that marijuana would become legal for recreational use in Oregon.

I'm very grateful to the Parks Board who did the bulk of the work on looking into this policy, and you're going to be hearing from some of them later. First, we have Parks Director Mike Abbaté and Deputy Director Warren Jimenez who are going to tell you more about the proposal.

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**Mike Abbaté, Director, Portland Parks and Recreation:** Thank you, Mr. Mayor and members of Council. Mike Abbaté, Parks Director. First of all, I just want to tell what you our current policy is related to smoking. Current code prohibits smoking in all parks within 25 feet of children's play areas and in other prohibited areas, and it's completely prohibited in certain park such as Pioneer Square and Director Park. So, what we're talking about is proposing some changes to that policy.

This ordinance would amend the code to extend the smoking ban to all park, natural areas, recreation facilities, and park maintenance facilities. It would extend the ban on all events on Portland Parks and Recreation properties with a provision for golf tournaments - - an exception provision for golf tournaments -- and it would expand the list of prohibited products.

**Fritz:** If I might just add, it's that the golf tournaments could apply for a permit to use tobacco products in the same way that other events can apply for an alcohol permit.

**Abbaté:** That's correct. There is a provision that would allow designated smoking areas for employees who do not have access to non-Parks property as well. And in recognition of the fact that there are traditional ceremonies that involve tobacco, there's also an exception provision that would allow the use of tobacco in these instances.

Now, enforcement. While any violation of a City Code is a misdemeanor which could lead to a citation, the primary method for this policy will be education. Patrons who refuse to comply with a policy may be subject to a Parks exclusion, but the purpose of the policy is not to ostracize people who use smoke or use tobacco. In addition to educating the public about the policy, raising awareness about smoking and tobacco cessation programs will be a big focus. And we'll do this with the help of Multnomah County and other agencies as well.

A little bit about the reasons. As the commissioner mentioned, our motto is healthy parks, healthy Portland. This ordinance would align our practices with that focus. It also contributes to our commitment to providing healthy and safe environments for Portlanders and visitors, especially for children and youth -- and you'll hear from some of them this afternoon. Smoke-free environments have been shown to motivate smokers to quit at higher rates than environments that allow smoking, and nearly nine of 10 smokers begin before the age of 18. I was one of those as a matter of fact, a smoker for five years.

The reasons for expanding smoke-free parks -- they get practical as well. Cigarettes have started fires at Oaks Bottom Wildlife Refuge, Springwater Corridor trail, and Marquam Nature Park. Our most common source of litter in our parks is cigarette butts, and they don't biodegrade quickly or easily, they're poisonous to animals and children, and they release toxins into our waterways.

Why now? Tobacco-related disease is still the leading cause of preventable death in Oregon. It costs Multnomah County \$223 million each year in medical care. The City of Portland, if you choose to approve this ordinance, would join 64 other cities, counties, and jurisdictions across the state that have established smoke-free park policies, and over a thousand municipalities nationwide including Boston, Chicago, and Los Angeles.

So as the commissioner mentioned, the Portland Parks Board has researched smoke and tobacco-free parks and put forward recommendations. And in early January or mid-January, an email was sent out to approximately 44,000 subscribers to our Portland Parks email list. It included links to the draft ordinance, the FAQs, it asked for feedback by the end of the month. We received 341 comments on this. The vast majority of the comments were favorable about this ordinance. I want to thank you, and I want to highlight especially the work of Assistant Director Jimenez; Cynthia Castro, Senior Administrative Specialist; and our Parks Board, who has been a terrific partner in this effort. Thank you.

**Hales:** Thank you.

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**Saltzman:** How many acres of parks and natural areas?

**Abbaté:** About 11,000 -- 11,500.

**Saltzman:** How many of those acres are considered high pedestrian usage?

**Abbaté:** High pedestrian usage like Forest Park?

**Saltzman:** High pedestrian density, let's say that -- like Pioneer Courthouse Square.

**Abbaté:** There aren't that many that would be as dense as that of the 11,000 acres -- maybe 25 acres, but I'm just hazarding a guess -- like the public plazas that hold big events. In the summertime, we turn many of our park into big venues with movies and concerts and hundreds and sometimes thousands of people in place.

**Saltzman:** And do you have the authority to make those events smoke free?

**Abbaté:** Yes, we do.

**Saltzman:** So 11,000 acres is a lot of acres, and I guess, there a Plan B that looks at something less than a full ban and says uses existing authority to ban smoking in high population density parks?

**Fritz:** That's part of the reason we're putting forward the policy is that the current sometimes-on, sometimes-not, some parts of parks are covered, some parks are not -- it has been confusing, and in my opinion it's simpler to have an overall ban. Besides which -- as Director Abbaté pointed out -- we've had fires in low-traffic areas because of discarded cigarettes.

**Saltzman:** But what about enforcement? I guess what strikes me most about this is that it's unenforceable. And you can talk about, "well, we're going to educate people," but sooner or later you gotta start writing tickets. Sooner or later you're going to come to us and ask for more Park Rangers because people are getting into conflicts with one another -- all sorts of things. So, are you committing to us not to ask for other budgetary resources to increase Park Ranger staffing to enforce this now and forever?

**Fritz:** Yes. We are asking for more funding for Park Rangers, but not for this.

**Saltzman:** What about enforceability? [indistinguishable] from the Parks Director.

**Abbaté:** Commissioner, I'll tell you that the single greatest force for enforcement is peer pressure. And making it clear to the public that smoking is not allowed sets a very clear standard and a very clear bar. We rely on the goodwill of the vast majority of our park users, and once this gets publicized and we spend the time educating folks, I've got great confidence that this is one of those things that self-enforcement will take care of much of the problem.

**Warren Jimenez, Portland Parks and Recreation:** And Commissioner, I would also say that it's true when you look at best practices and look at the other jurisdictions that typically it is about education and that social pressure that helps with this issue.

**Hales:** Other questions for staff?

**Novick:** Yes. Director Abbaté, I wanted to raise some questions and concerns that I've told Commissioner Fritz about earlier. I mean, I thoroughly agree with the goal of reducing smoking and making parks more pleasant for people who don't like being around cigarette smoke. I've had the experience myself of having to move around place-to-place in a park to avoid smoke. But I am worried a bit about some potential unintended consequences. Laura Hanson in my office was at the University of Oregon when they adopted a no-smoking policy on university grounds. What they found was that smokers would congregate in the right-of-way immediately adjoining the university property, like those of you who know the U of O campus, on a median strip on Agate Street that was outside student housing and around the Duck Store on 13th Avenue. So, it created unfortunate environments for people in those place. And perhaps probably because I'm Transportation Commissioner, I worry about displacing crowds of smokers in the right-of-way around parks.

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Another concern I have is that I kind of -- people who smoke are unhealthy enough already, and I am a little worried about the prospect that they would just completely avoid parks because they can't smoke there, and I'd like to see them getting some exercise, even if they are ruining their health by smoking. And I realize that there would be practical problems with this, but ideally what I would like to see -- at least in larger parks where you couldn't really segregate people -- is to have designated smoking areas and say, it's illegal to smoke, except here you can. And that way the people that don't want to be around smoke can avoid them. And Commissioner Fritz has already told me that that's wildly impractical, but I wish it weren't, and I just want your thoughts on that.

**Abbaté:** Commissioner, a couple points. I think -- you know, we have 220 parks and natural areas. And identifying specific locations where you could smoke really, in my estimation, actually makes it much, much more complicated because then you have areas that then you have to patrol that specific area, and you still have to tell folks that what they need to do is move to a particular site. There probably would be some capital costs. How do you identify that? Do you have to create fencing, or how do you do that? -- in a huge variety of different kinds of parks and places.

I also think that Commissioner, to your first point, I think it is true that -- and we share -- we want people to enjoy our parks. And we want everyone to come and enjoy time spent outdoors. If you are a smoker, we are not asking you to stop smoking. We are asking you for the time that you are spending in that park, don't smoke while you're there. Most visits to parks are not a three or four-hour visit, they're an hour or so, and I believe that this is part of a bigger system where really our entire system is trying to promote a healthy, active lifestyle. So, that would be my response.

**Novick:** I'm making this up, but can you imagine having a system where smoking is banned in parks but if a critical mass of smokers in the area of a park came forward with a petition saying, we want to use the park and we'll abide by the rules, but we would like you to carve out a place for us to smoke? I would imagine that might not happen all that often and it would at least give people the option of like sort of carving out for themselves a place to smoke. Does that sound wildly impractical?

**Abbaté:** Well, if it were a permitted event -- and we do a lot of permits with -- for example, as the Commissioner mentioned, we do not allow alcohol, but we create a permitted provision where you can under certain circumstances have alcohol. If that's what the council wanted us to do, to create something in a permitting system that allowed that, we could do that. This right now -- the ordinance as it's currently written would not allow it.

**Novick:** Another question I have to ask: why this semi-exception for golf events?

**Abbaté:** It's for golf tournaments, and I think this is a big question for us as a park system is we have five golf courses and we have a racetrack, so there's been a lot of research and deliberation on what the impact of no smoking might do to those which receive no general fund -- they're completely self-supporting. Golf tournaments are a big source of revenue, and as the Commissioner mentioned, they could petition for a permit requirement that would allow smoking under certain conditions. That would probably be -- the conditions would be things like not around the parking lot, not around the clubhouse. Out on the holes, perhaps. But one of the things that we don't want to do is to create a situation that a recreation opportunity that's self-funded, completely self-funded doesn't go under because we lose, you know, 20% of our tournaments. But we've also talked to many other golf systems in the country, and after an initial adjustment period -- that's why we're only putting it to tournaments, not for normal play -- we found that the golf systems haven't suffered overtime.

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**Fritz:** The initial recommendation from the Parks Board was to phase in a complete ban on golf courses. In discussions with the Golf Advisory Committee, we decided on this compromise to allow tournaments to apply for a permit if they wanted to do so.

**Jimenez:** I would also add that in addition to the golf being an enterprise fund, it also works in a competitive market. That was certainly one of the reasons behind making a distinction in that there are other golf courses that do allow smoking.

**Hales:** I'm not sure if I followed you on sort of the festival scenario. Let's say -- I'm just thinking this through given the conversation -- so let's say President Barack Obama is successful in normalizing relations with Cuba and somebody wants to put on a Cuban cigar and Portland beer festival. Would that not be allowable? Would we have to make a specific exception?

**Abbaté:** I believe you would have to make an exception.

**Saltzman:** By ordinance?

**Jimenez:** Yeah, currently as the ordinance exists, it wouldn't allow it.

**Hales:** Alright. More likely a Cuban rum and beer festival -- [laughter] -- but I digress. I'm serious, I just want to understand how that would work. Thank you.

**Fritz:** Thank you very much. So, our next panel: Julie Vigeland from the Portland Parks Board, Tricia Tillman from the Multnomah County Health Department; and they'll be followed by some students. That's the first two-person panel.

**Hales:** Good afternoon, welcome.

**Julie Vigeland:** Thank you. Honorable Mayor and City Council members, we really appreciated --

**Hales:** Your name for the record, Julie -- sorry.

**Vigeland:** That was the next sentence, but it's Julie Vigeland. I thank you for the opportunity to testify on this important issue today on behalf of the Parks Board. And yes, I am Julie Vigeland, and I am a current board member and a past board chair.

Our Parks Board is a 15-person group appointed by you, the City Council, to advise Portland Parks and Recreation on policy. We proudly represent the diversity of Portland, both in geography and in a wide range of racial, ethnic, and social, economic backgrounds. At our December meeting, the Portland Parks Board unanimously recommended that the City of Portland expand its smoking policies. I want to extend the Parks Board's appreciation to Commissioner Amanda Fritz for her enthusiasm and her eagerness to get this on the docket.

Along with several other members, I have served on the Parks Board committee for the past two years, and we've researched this idea of transitioning all of our parks, natural areas, and recreation areas to be smoke-free. We have researched communities around Oregon and around the country who've already implemented smoke-free policies.

We often pride ourselves on Portland's leadership in many significant policy areas that make this city a better place to live. On the issue of smoking and parks, we need to catch up to 64 other cities and counties around Oregon, who are ahead of us in this effort. All state of Oregon parks, all Metro parks, and communities as small as Reedsport and as big as Hillsboro have gone smoke-free. Around the country, as already mentioned, New York, Chicago, Houston, Los Angeles, and San Francisco -- they've all done the same.

Looking at this issue, our committee learned that currently, and to -- as Amanda Fritz said -- Director Park, Pioneer Courthouse Square and the portion of the South Park Blocks that fall on the Portland State University are smoke-free. Further, smoking is prohibited within 25 feet of any play area structure, picnic table, or children play area. Yet it is currently legal to smoke at crowded park events or while hiking along well-used trails. The Parks Board recommends that all parks and recreation be smoke-free.

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This policy would eliminate the guesswork regarding the rules for the park you are in. Is it a smoke-free park? Do you need to measure the number of feet that you are from a play structure or play area? All would know that in Portland parks or natural areas, there is no smoking.

This move is consistent -- as Director Abbaté said -- with Portland Parks and Recreation's mission which is healthy parks, healthy Portland. It would reduce the exposure of Portland residents and visitors -- especially children and youth -- to smoking and tobacco use to protect their health and discourage them from starting the habit that is difficult to quit. Often, people are at a park with dozens if not hundreds of other visitors at events, on a trail, or near a playground where second hand smoke -- a well-documented health hazard -- is an issue.

Finally, another benefit of the proposal is to protect Portland parks and natural areas from potential risk of fires and the damage caused by littering of cigarette butts and other tobacco-related waste. In Portland, littered cigarette butts have been the cause says of fires at multiple sites including Oaks Bottom Wildlife Refuge, Marquam Nature Park, and Springwater Corridor trail. Additionally, people may not realize the cigarette butts do not biodegrade and they leech toxic chemicals into our waterways.

The Portland Parks Board urges you to vote yes next week to expand the Portland smoke-free policy and establish that all City parks, recreation areas, and natural areas will be smoke-free. Thank you for your consideration.

**Hales:** Thank you. Good afternoon.

**Tricia Tillman:** Good afternoon, Mayor Hales, Commissioner Fritz, and Commissioners. My name is Tricia Tillman. I've been working in public health for over 20 years, am a former member of the Parks Board and am here today as the public health director for Multnomah County Health Department.

The Health Department supports the Portland Parks recommendations to expand its current tobacco policy for all City parks and natural areas. While only 15% of Multnomah County residents smoke, tobacco use is the leading cause of preventable death and disease in Oregon which includes cancer, stroke, heart and lung diseases. In Multnomah County alone, almost 1200 people die yearly from tobacco, and approximately 23,000 people suffer from a serious tobacco-related illness. The health inequities associated with tobacco use are staggering, with close to 30% of African American adults and over 40% of American Indian, Alaskan Native adults in Multnomah County identifying as current smokers. These same communities shoulder a disproportionately large burden of tobacco-related illnesses.

The Health Department has been working to reduce the burden of tobacco use and prevent youth from smoking. One strategy with demonstrated success is expanding smoke-free environments. Some examples -- which have been mentioned -- include the Oregon Indoor Clean Air Act; Metro's regional smoke-free policy which includes the zoo, regional parks, golf courses, and natural areas; and the Portland Timbers' assurance that their fans and athletes enjoy a smoke-free Providence Park.

The Center for Disease Control and Prevention recommends these policies to ensure that smoking is not the norm in our society. And this is especially important for our children, those who become ill from even the slightest exposure to tobacco smoke, and individuals who have struggled to quit and stay quit. Multnomah County Health Department is pleased to see all tobacco products called out in the policy, including electronic vaping devices and smokeless products.

Tobacco program staff have been working with the Parks Bureau to support the development of this policy and our available to assist at your request with implementation. I'm confident that residents and visitors will benefit from the policy, including my own

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teenagers, who are part of the demographics targeted by the industry to become new users; and my mother, who quit smoking about 30 years ago but has been battling lung cancer for the past five years. I appreciate your leadership with this very important issue, as well as the invitation to speak here today. Thank you.

**Hales:** Thank you. Questions? Thank you both.

**Fritz:** Our last panel is a student from the Southwest Charter School, Colter Decker and Henry O'Scannlain-Miller; and students from Madison High School, Lindsey Ramirez and Winnie Luo from Rebels Without a Cause.

**Hales:** Welcome.

**Fritz:** Thank you for being here.

**Colter Decker:** Hi, I'm Colter Decker, I'm an eighth grader at Southwest Charter School and live in Southeast Portland.

**Henry O'Scannlain-Miller:** And I'm Henry O'Scannlain-Miller, an eighth grader at Southwest Charter School. I live in Northeast Portland.

**Decker:** As a class, we voted and chose secondhand smoke in public parks as our project for citizens from a pool of community issues.

**O'Scannlain-Miller:** We chose this for our project because it is an important and costly health issue. People can't choose whether or not they are affected, but they are exposed to smoke if they are in a public park with smokers.

**Decker:** We have received letters of support from the American Cancer Society, the American Heart and Stroke Association, and the American Lung Association.

**O'Scannlain-Miller:** We also started an online petition and would like to share with you some of the many comments in support of our issue.

**Decker:** Barbara Anderson from Portland commented: I spent a lot of time in our parks. At times, the smoke pollution is so high I have to leave. Please ban smoking from the public places.

**O'Scannlain-Miller:** Jan commented: my husband and I moved to Portland for a healthy lifestyle and a clean city experience. Let's help our children have that experience, also.

**Decker:** And Katherine Miller: second hand smoke kills. I may have had to endure it as a child, but as an adult I have the choice. Keep this poison away from me.

**O'Scannlain-Miller:** Niles Leeman says: this is an absolutely critical thing to do for Portland if we want to call ourselves a livable and progressive city.

**Decker:** There are many more insightful comments, and I encourage you to read them when we give you a copy of the petition.

**O'Scannlain-Miller:** Seeing people smoking desensitizes smoking and makes it seem more socially acceptable, leading to young people becoming addicted.

**Decker:** We spent months researching the dangers of secondhand smoke to encourage you, the City Council, to ban smoking in public parks. It is important to us that smoking is banned in public parks because we want to be able to go to parks without having to worry about the dangers of secondhand smoke.

**O'Scannlain-Miller:** Portland is a leader in promoting healthy living, and banning smoking in public parks is the next step in securing a safe and healthy environment for the citizens of Portland. Thank you.

**Decker:** Thank you.

**Hales:** Thank you both.

**Fritz:** Thanks to your whole class who did a presentation for me about a year ago and was part of the impetus for us moving forward on this. Thank you very much.

**Hales:** Good afternoon, and welcome.

**Lindsey Ramirez:** Hello, my name is Lindsey Ramirez and I'm a junior at Madison High School, and I'm a Rebel. The Rebels for a Cause is a student-led group made up of

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students across the tri-county area. Our mission is to influence through education and inspire through example to promote a tobacco-free world.

One of the things that we do is we talk to middle school and high school students and explain to them the misconceptions they may have about tobacco. We also hold events around the schools and the neighborhood to bring awareness to our community about the dangers of tobacco use. We are here speaking to you about why the ordinance should be passed because as high school students and as Rebels, your decision will impact our future.

Allowing smoking affects me because right next to Madison is Glenhaven Park. It's a nice park with a tennis court, athletic field, and a skate park, but unfortunately it gives Madison a bad reputation because it's a place where adults and students like to go smoke. Having the park so close to the school gives students a place to smoke that's off school grounds. That's not the only problem there.

At Madison, the park is often used by sports teams to practice and to hold sporting events, and allowing people to smoke cause as disturbance. I remember playing tennis my freshmen year, and smelling the tobacco from the cigarettes. It was disgusting and it was one of the reasons I didn't play the following year. And allowing people to smoke not only endangers those in the park, but also the infants and toddlers at Madison's daycare program for teen parents. The children are regularly taken outside to play. Unfortunately, since the park is very close, they inhale a lot of fumes from cigarettes, and cigarette butts end up right in front of their little play area.

I believe that passing this ordinance would make the much park safer, and be better for the overall community. Not only would it make the area better but it would also benefit the Rebels. We use our voices because we want our experience regarding this issue to be heard, an issue in which many think that we aren't affected by. By passing this ordinance, it will not only strengthen the message the rebels are trying to spread but it will also make our voices louder and stronger. Thank you for the opportunity to be here and share with you today.

**Hales:** Thank you. Welcome.

**Winnie Luo:** My name is Winnie, and I'm a Madison Rebel. I came from a family of smokers, including my father, who began smoking as a teenager and still smokes today. Growing up, I saw firsthand what smoking can do to you. I have a little sister who currently attends Harrison Park and will eventually go to Madison. Like Madison, which is next to Glenhaven, her school is next to Harrison Park.

As a 12-year-old, my sister is extremely impressionable. Seeing all the other older students smoking may encourage her to smoke as well. She might start to think that the smoking is acceptable and cool. If Portland Parks banned the use of tobacco products, it would set an example for children, discouraging them and letting them know there are consequences to smoking. This is why I joined Rebels. I wanted to ensure a safer environment for children like my sister and prevent them from going down the same path as my father.

To go with our testimony, we bought an example of what Glenhaven Park looks like. Believe it or not, this is the amount of cigarette butts that we found within 30 minutes. This amount of litter might surprise you, but it definitely does not surprise me. This is what I see every single time when I step outside of my school, and it is not acceptable.

Kick Butts Day is a national day of activism that empowers you to stand out, speak up, and seize control against big tobacco. We would like to invite all of you guys to join us on Wednesday, March 18 at Madison for Kick Butts Day from 12:30 to 1:00 p.m. Thank you for allowing us to share our experiences and speak our mind.

**Fritz:** Tell me about the name, rebels with a cause.

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**Ramirez:** So, again, Rebels for a Cause is a program with health schools -- so if you are a part of a health program, the health sciences program, and you go to Madison or the two other schools which are Schellenberg and Beaverton, you can join the club. It helps us work -- it helps us to set up these events, and trying to help people that we know like our friends or people that are going to be coming to high schools just get a view of why smoking isn't something that they should start because it is, again, dangerous for them, and it's not helpful for anyone around you. I mean, secondhand smoke is as dangerous as smoking yourself. So, it benefits you and the people around you.

**Fritz:** Thank you very much for your work. And could you hold that canister up? How many people did it take to collect those cigarette butts?

**Luo:** It was the freshmen class of health.

**Fritz:** Wow. Thank you for bringing that. That's very graphic -- a graphic illustration of the immensity of the problem.

**Hales:** Thanks very much. Thanks for coming. OK, any more invited testimony, Commissioner? OK, then we'll open it up for public testimony from the signup sheet. So again, if you are here to testify on this item, welcome. We practice democracy in this room, so if you agree with someone, you can do as you've seen folks do, which is give them a thumbs up or a hand wave, but we like to let our fellow citizens have their say. So, no matter what point of view we want to be heard. We typically give three minutes. You need only give your address, unless you are a lobbyist -- and I'm sorry?

**Fritz:** You said only address.

**Hales:** Only your name -- not your address, sorry. [laughter] We don't care about the address. If you are a lobbyist, actually, we need to know that and who you're representing because that's what the City Code requires you disclose. If you are a citizen, you need only give us only your name. So, welcome, and please let's take testimony from the sheet.

**Moore-Love:** We have five people signed up. The first three, please come on up.

**Hales:** I wondered why you were back in this room, Lee. Good to see you. It has been a while.

**Lee Hill:** Hi there. Lee Hill, Southwest Portland, long-time member of the golf committee and also I now work at one of the golf courses part-time. I marshal, so I have a vested interest in this. I think I will be one of the people expected to enforce this.

I'm a nonsmoker, and I'm in agreement with this. I think it's expected; I saw it coming. My only concern -- and again, this is more reflective of RedTail than the other courses -- is we do have very little in the way of tournaments out there. I am not disagreeing with Director Abbaté, but I don't think tournaments are as big a boon to our golf course income as he might think. They really don't mean that much. At RedTail, my concern is that we have a very large percentage of Asian -- particularly Korean -- golfers. And for whatever cultural reasons, they are smokers. And I've done kind of an informal poll, and they're pretty indignant about this. So, I hope that there is follow-through. Now, I'll also tell you I've done an informal poll of the people who run the golf courses, and they really don't seem to have any real intention of enforcing this. I know it doesn't go into effect until July 1. Is that it?

I just hope that we're prepared to see numbers drop, because I think that that's going to be one of the initial results of this. I think some of the golfers especially at RedTail are going to find other places to play, but I understand.

Another thing that kind of confuses me, Commissioner Fritz -- we've banned alcohol on the golf courses. No, we haven't. We have alcohol on all the golf courses. We have it in the restaurants. We have beer, we have wine, and we have distilled spirits. Not only do we have them, but we deliver them to the golfers while they're playing via beverage carts. So, I'm not saying it's a hypocrisy and I know that we want to save the world from the ills of

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tobacco, but I witnessed, as a marshal on the golf course, I don't really have a tough time with people smoking, but I've had a real tough time with people who are drunk. And we're part of the reason that they get drunk because we serve them alcohol out there.

**Fritz:** [laughs] I didn't know that. That will be the next policy change. [laughter]

**Hill:** So, yeah. And there is one other thing. It's a specific incident, I think you are aware of it. In August of 2013, the Oregon State University rugby club had a tournament at Heron Lakes and they got inebriated. And we helped them get inebriated. And a woman who worked the beverage cart was sexually assaulted. It was a very serious matter, and I hope that we come up with a better policy in the future than the one that we had to address that because the perpetrator was never brought to justice. The police and the criminal justice system was never involved, and now Kemper Sports Management, which manages that course -- that's our agent at that golf course -- is paying that woman a considerable sum of money. It was handled very poorly. And after that, it was our golf director's decision to give a no-bid contract to that same management group for the new course, even though they were a named defendant in a lawsuit. I hope that we can come up with a policy that's better than that in the future for handling sexual assault -- and that's directly responsible because of alcohol. I know I segued into that, but if you're concerned about tobacco, you should really be concerned about alcohol, also.

**Hales:** Question for you, Lee -- not being a golfer, I don't know this -- but private courses, do they typically allow smoking or is it prohibited? Are they all over the map? What's the --

**Hill:** They do -- but remember, with private courses, there's usually a much greater consensus to agree to the rules. And you have smoking on private courses, but it's done very discreetly.

The other thing that's tough about this is cigars. I did a tournament for the Kaiser doctors year ago at Pumpkin Ridge. And they were all smoking cigars, you know. It seems to be a thing you do in the celebratory golf tournament or whatnot. That's going to be tough also, because a lot of people like to have a cigar when they play golf, and they don't view that as a terrible health risk, although it is a health risk, too. Thank you very much.

**Hales:** OK, thank you very much. Appreciate your volunteer service. I think you are next, sir. Welcome.

**Peter Garcia:** Good afternoon, Mayor Hales and Portland Commissioners. It's an honor to be here. My name is Peter Garcia, I was born December 27, 1959 at St. Vincent Hospital in Portland. I graduated in 1978 from Parkrose High School, I'm 55 years old, I've lived here and worked my entire life. I have enjoyed, appreciated, played, worked, and volunteered in our beautiful city of Portland parks for my entire life. If someone asked me how well I know the parks, I guess would say I'm an expert on the parks.

I smoke cigars for 35 years for pleasure. I do not intend to quit. I enjoy a good cigar. I am healthy -- very healthy. I am not a criminal. I do not litter. I respect the concern of others. In my 35 years of smoking cigars, I cannot remember even one time someone asking me to put it out or please move away. I have been told how many times how nice it smells and have been thanked for asking people around me if it offends them if I light up one of my cigars.

A great pleasure of mine is smoking my cigar sitting at a Portland park, enjoying the beautiful day, whether it is spring, summer, fall, or winter, it doesn't matter. It is a favorite past time of mine, and I have thoroughly enjoyed it for years and years and I plan on continuing this wonderful joy in my life for many more years to come. It would be sad and awful if this suddenly was not available to me anymore.

I am here before you five, excuse me, four leaders of my city to express my disapproval of the proposed cigar smoking ban at my parks. Here are a couple of reasons that I believe that we should vote against it. First of all, it's not right, it's not fair, it's mean,

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it's not Portland, it's cruel, it's wrong, and it's discrimination. It would be a nightmare for Park Rangers. How would they enforce it? They would constantly be confronting smokers - - constantly. They would have confrontations all day long. It would be a nightmare for them and plus, the parks go forever and forever and they can never cover it all.

Unfortunately, our government has kicked cigars and cigarette-smokers out of bars, apartments, parks, and many other places. Where do we go next?

And it's very unfair to the poorest population. A friend of my, Mr. Ted Johnson, worked 35 years hard work in Multnomah County, he retired, he ended up living at a subsidized housing project on NW Park Avenue down here, and one of his few enjoyments -- he's banned from smoking in his own apartment. One of his few enjoyments in his lonely life is to sit at the park bench in the north park blocks and enjoy an afternoon sunshine with a cheap cigar and some coffee. Mr. Johnson is not a criminal. He doesn't drive. His mobility is limited. He minds his own business, he's worked hard and paid taxes over decades in Portland, he has very few friends, he's a kind older Portland gentleman, and he's not a criminal. [beeping] Must I stop now?

**Hales:** Try to wrap up but we'll give you some more time.

**Garcia:** Please, you leaders of this wonderful city, please do not make him a criminal because if you pass this, this lonely old man will be a criminal -- and there are hundreds of Mr. Ted Johnsons in Portland. Some of them, all they have is a day in the park to light up a cigarette and enjoy their life. A lot of lonely old people that don't have much enjoyment left in life except to smoke, and they are not going to quit. They are not going to quit any time now or any time soon.

I do not win this cigarette or cigar smoke interfering with park users. I am in the parks all the time. We already have restrictions on smoking in parks and it works. We're responsible, we listen to it, we understand it, and there's signs. Please don't take away what Portlanders have been doing for 150 years. We lost way too much freedom of choice in my adult life. Please, Mayor Hales, Commissioners, please do not make enjoying a fine cigar outdoors in a lovely city park a crime. It hurts no one. I'm a hard working Portland citizen, lived here 55 years, I love Portland, I love cigars, I am not a criminal. Please do not make me one. Thank you very much.

**Hales:** Thank you, and thanks for coming. Appreciate it. Mr. Walsh?

**Joe Walsh:** My name is Joe Walsh, and I represent individuals for justice. Seven years ago, I lit up my last cigarette. I'm on oxygen not because of smoking but because I have asbestos from the navy and from the shipyards. One of the problems that we have here is we support the concept of what you are trying to do, but we oppose what we consider draconian ways you're going about it.

First of all, we agree with the Commissioner Saltzman that it is unenforceable. You cannot do that. You have too many parks, you don't have enough Park Rangers, and unless we're going to have a flood of people that will now be running around, writing out tickets -- and I know you're saying, OK well, we're going to do education. You're making it a misdemeanor. Now, let me explain what a misdemeanor is for your viewers -- and you have a lawyer up there; if I'm wrong, please correct me. You can spend a year in jail on a misdemeanor. You can go before a judge, and that judge can put you in jail for a year on a misdemeanor. So, it's no minor stuff.

Excluding means exclusion for what? All the parks? So, if somebody gets busted for smoking a cigarette, they're either going to get a huge fine or go before a judge and be excluded, or the Park Ranger is going to decide? There is nothing in the paperwork that says any of this.

You also say in the paperwork it's not going to cost anything because you are going to do it within the system. Let me tell you something about mootness, because I'm getting

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to be an expert on this. If you exclude somebody from the parks, they do have a right to appeal. In the park regulation, it says you cannot just say, the case is moot. It will go on, and a hearing officer with witnesses and the City will be represented, and the guy will be represented, or the woman -- whoever gets the ticket or the exclusion. It's a very complicated process, and I know it personally.

So, what you're doing is zealot-ism -- that's what you are doing, and I say this directly to you, Commissioner Fritz, because I know you want to do the right thing. This is being a zealot. And as far as the cigarettes you saw today, I was standing by a TriMet station today on the way here, and one of the things that I noticed was on the tracks, there are huge amounts of cigarettes. It's a \$200 fine if you get caught smoking on a TriMet station. But there are hundreds of cigarettes. So, don't let that fool you. This is not going to stop people from smoking in the parks. You're going to have to figure out enforcement, and that is going to be a nightmare. Thank you.

**Hales:** Thank you. Next folks, please.

**Moore-Love:** The last two are Steve Entwisle and David Loftus.

**Hales:** OK. And anyone else who hasn't signed up, feel welcome.

**Steven Entwisle:** Good afternoon. I am Steven Entwisle, Sr. I'm a founder of the healing man sanctuary representing individuals for justice, 100 million friends, and I'm also a whistle-blower for the less fortunate and a 55-year resident of Portland. I was born here, been going up to that park up in these parks since I was -- since 1962.

I am not a tobacco fan. In fact, I guess you would call me a tobacco-free smoker. But this isn't about tobacco as much as it is about the rights of the individual being taken away and targeted. All hostilities towards the less fortunate, confrontations from zero-tolerance policies such as these will increase negative contacts with park-goers and add to security demand, which will also cost a lot of money.

But this should not be about building up a police state in our parks. We have the safest parks in the nation, if not in the world, and to say that we need to add a bunch of security and make them dangerous because we have got guys chasing around smokers, the Rangers chasing them around all day and have a confrontations with them and seeing if there are inclusions and if they have this and that on them -- I have got a question for you. Let's say somebody is up there and it's in the middle of wintertime. And he has his hand by his mouth, and he blows out some condensation and the Park Ranger thinks he's smoking. That gives him an excuse to go and search this guy down. Now, that's a point that you probably haven't heard about.

Also, there is some folks up there that are Vietnam veterans that like to go up there and smoke a joint once in a while, like especially a week before the Vietnam veterans' memorial. Now, you're going to criminalize them. That's not right. I know some of these folks.

Another thing is, in Europe, the difference between the rangers in Europe and the rangers here, you know what they are? The rangers in Europe, they wear really bright outfits so that everybody can see where they are at and see them coming from a long ways in case they need them. The rangers here, we have camouflage. One more point. We should make our rangers wear fluorescent pink so we can see them coming from a long ways, so that way there won't be any confrontation. Thank you.

**Hales:** Thank you. Good afternoon.

**David Loftus:** Good afternoon, my name is a David Loftus. I've been a twenty-four-year resident of Portland. I was born in Eugene, came of age in Coos Bay, I'm a freelance wordsmith, actor, model. I also work part-time as a customer service rep for the Portland Streetcar and I guide Portland walking tours, part of which its route takes me through the

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park blocks. So, I see the city while I work in several jobs as an ambassador of Portland and I see the city as visitors to the city often see it.

And I am speaking in support of this measure because -- well, I see it almost as a tactical thing because it's tough to catch people littering. And having lived a block off the south park blocks for 10 years -- I've lived in Museum Place for 10 years as of July -- I see that although I tangled with Oregonian editorialist last year, I filed a letter in support of this measure and they printed it as a guest editorial with a rebuttal, so I got them where they live. He said everybody litters and from my observation, that's not the case. Most of us grew up learning not to litter. And from my observation, the people who litter in the parks tend to be from out of town, they tend to be visitors, they tend to be homeless and vagrants and folks who are doing other things in the park. But the people who drop cigarette butts come from all walks of life.

I see my neighbors who live in buildings along the park blocks grinding them out and leaving them on the street. I see business people, I see all kinds of people. For some reason, smokers seem to think that they are exempt from littering laws -- and it's tough to catch people littering but it's not hard to catch them smoking. And I see this measure as partly a tactical move, because I have not seen local law enforcement able to budge the drug dealers from Shemanski Park and the first couple blocks of the South Park Blocks, and they're having more and more difficulty with street people who are camping on the South Park Blocks or hang out on for a long time. I've been doing battle directly with skateboarders who leap on the peace chant sculpture.

All of these people -- at least some of them -- smoke. And it's tough to catch these people doing the things that they do, whether it's a drug deal arrest littering or jumping on the sculpture, even though there are posted signs saying no skating in the Park Blocks. Now, previous spokespeople talk about needing more enforcement and coming down hard on people. We know that there is wiggle room that folks will get a lot of leeway during the education period and during the enforcement period, but this gives you another tool that I'm hoping will get more policing of the park blocks to go after people who are up to much worse things than smoking.

And gradually, I hope in that the rest of the smokers will stop dumping butts on the block instead of taking those extra few steps to a garbage can because there's one on every block, but I see piles of butts next to the benches, on the walkways, within easy reach. And most smokers don't seem to know or understand or know about portable ashtrays -- you can buy them at any Rich's Cigar Store. So, I am very much in favor of this ordinance.

**Hales:** Thank you, and thanks for coming. Anyone else like to speak? Then this will be a Council discussion.

**Fritz:** Could I get Parks staff to come back? Warren, could you come back? Mr. Abbaté? If you could just address the question of park exclusions. If somebody is excluded, are they excluded from one park or from all parks?

**Harry Auerbach, Office of the City Attorney:** Thank you. At the director's request, I will handle this one. My name is Harry Auerbach, I'm from the City Attorney's Office. First thing about the Rangers. The direct answer to your question, Commissioner, is under our code, if a person commits a violation of the law in a park, that person is subject to exclusion only from that park. Our rangers are not armed, they don't carry handcuffs, they don't search people, and they don't arrest them or issue criminal citations. None of that is going to change under this ordinance.

Technically, any violation of the City Code is an unclassified misdemeanor, with the maximum penalty of six months, and a small fine. In reality, it's very rare for anybody to get

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any actual jail time for violating any City Code provision, although for some of the more serious ones, I believe that they get some.

**Fritz:** Do you know if we've ever issued a misdemeanor citation for smoking in the current smoke-free zones?

**Auerbach:** As far as I know, we have not. I'm not aware of any time in which that has been done. It is most of my understanding is that the plan that the bureau and its Rangers have for this program is pretty much mirrors what the folks at Pioneer Courthouse Square have been doing ever since we've made it first by rule and later by code unlawful to smoke in that park, which is approaching people and educating them and gaining voluntary compliance. Much as we try to do with all our code provisions -- we rely on the public to voluntarily comply with them because we don't have enough police officers to enforce every provision of our law everywhere throughout the city, and we don't have enough Rangers to enforce every provision of the code that you have got on the books now. We do the best we can with what we've got, and rely on education and voluntary compliance for successful implementation of your programs.

**Fritz:** Thank you. Anything else either of you would like to add?

**Abbaté:** I don't think so, Commissioner.

**Fritz:** I just remind my colleagues that when we did the off-leash dog area -- the off-leash dog appropriation for the Rangers to be able to issue citations and fines, we did that by separate ordinance. We have no intention of coming to Council with any kind of suggestion that we're going to empower rangers to issue tickets or written warnings, those kinds of things.

**Novick:** Commissioner, that reminds me of another question I had, which is have you considered the option of simply requiring that all smokers be on leash? [laughter]

**Fritz:** We would then have to have off-leash areas and that's problematic, too.

**Hales:** Other questions for staff before we conclude? So, this is a first reading. It will be back for Council discussion and a vote next week.

**Fritz:** And I just wanted to close by thanking my staff and everybody who's been involved in this discussion. I think it has been a productive and constructive one.

I was a nurse at OHSU when OHSU went smoke-free first inside and then campus-wide, and we had a lot of these same discussions about how people would manage. In fact, it turned out very well. And as Commissioner Novick and I were discussing with relation to the University of Oregon campus rules, Autzen Stadium is entirely smoke-free and it does not seem to have stopped people going to Duck football games. So, there's many other events and sporting events within our City, PGE Park was mentioned -- Providence Park -- where people are gathered and manage to not smoke for hours at a time. And I don't see this as a draconian measure at all, I see it as something that would promote healthy parks and healthy behaviors for the children and adults who are in our parks. So, thank you for your consideration.

**Hales:** Thank you. So, this moves to second reading, and we are recessed until tomorrow at 2:00 p.m.

At 4:20 p.m., Council recessed.

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**Closed Caption File of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**FEBRUARY 12, 2015      2:00 PM**

**Hales:** Good afternoon, everyone, and welcome to the February 12th meeting of the Portland City Council. Would you please call the roll?

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

**Hales:** Welcome, everyone. We have a single item on the agenda this afternoon, so we know why you're here, and welcome. We're continuing -- and I'll get Karla to read the item in a moment -- continuing our discussion of the changes to our code regarding demolition. We will get the item read and then we will take staff presentation and testimony.

For those of you who have spoken here before, you know the rules. But for those who haven't, you don't need to give your address, just give us your name. If you're a lobbyist representing an organization, you do need to please disclose that under our City Code's requirements. With an agenda like this with a lot of people signed up, we typically ask you to hold your comments to two minutes. So, please try to be succinct. If somebody else has said what you wanted to say, feel free to give them a thumbs up or wave your hands, and if you want to waive your moment to speak -- but you don't have to. The point of that is we like to have everybody have their say, but please don't make any vocal demonstrations for or against your fellow citizens' points of view and I think they'll do the same for you.

**Item 169.**

**Hales:** Commissioner Fritz.

**Fritz:** Thank you, Mayor, and thanks to everybody who's been engaged in this process, both volunteers and staff. It's been a very constructive set of discussions, and I'm happy to be here today with a substitute ordinance. I'm going to invite Nancy Thorington from the Bureau of Development Services to come up and explain what the substitute is. I think I'll move the substitute first so that we just have it on the table.

**Hales:** There's a motion to put the substitute before us.

**Fish:** So moved.

**Fritz:** And second.

**Hales:** Further discussion? And a roll call to put the substitute on the table for us to discuss.

**Roll on motion.**

**Fritz:** Nancy is going to go through and explain what all the changes are since the December version, and that then will form the basis of what we'll be asking everyone to comment on. Aye.

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

**Nancy Thorington, Bureau of Development Services:** Thank you, Council members. I have a PowerPoint here that should be coming up in a second to help us go through this because it's been nearly two months, and a lot of information here.

So, this first slide is basically an overview. I'm going to just go over what was presented originally, our proposed changes, and then some of the cost issues. In December, we came before you with a proposed amendment that would add mailed notice to the properties within 150 feet and door hangers to the notice of the demolition. It would

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make all the residential structures subject to the initial 35-day delay and change the current 120-day extension and replace it with a 30-day extension, and then remove the current exception to that notice and delay provision.

The other amendments were to add definitions to the code. Right now, there is no definition of demolition either in state law or in our ordinance, so we wanted to add those in there. We also added a category for major alterations and additions because there was a lot of input from the community about what essentially are called these virtual demolitions. So, that provision addresses those and we are not proposing any changes to that one.

This slide gives you an idea of the numbers we're looking at for the residential permits for 2013 and 2014. The total permits in '13 were 281; the total for last year were 312; we're on course to process about 370 this year. The next column shows the numbers that are exempt under the current code. You'll see the difference in 2013, it was 212; and last year, it was 177.

The reason for that number going down was about midyear, our Director Scarlett changed the interpretation so that fewer of the permits were covered by the exception. And so, you can see the number then reflected that were subject to the notice. And of those, the number where there was a 120-day delay requested in 2013 -- it was two. And in 2014, it was five. Those aren't huge numbers, but you can see the trend upward in terms of the number of -- or the exceptions, the delay exceptions -- I'm sorry, extensions -- that are being requested.

In response to the hearing on the 17th, we went back to address the demolition delay extension, because that was really the issue the public was concerned with. So, we met with the Development Review Advisory Committee, subcommittee, the full DRAC, the United Neighborhoods for Reform, Restore Oregon, the Bureau of Planning and Sustainability, and our code hearings officer to address this issue of the demolition delay extension. And we reached consensus among these stakeholders for the proposal that's before you now.

This next series of slides is -- I put it in three columns to help give you an idea of --- the first column is the existing code, what's in there now; what we presented on the 17th; and what we're proposing now. This first one is the notice provision.

Right now, if you come into BDS and you ask for a demolition permit, you get this huge orange poster that gets posted on the site. We are proposing removing that requirement based on input that those basically attract criminal activity and don't really give the notice that is very effective. So, in lieu of that we are recommending having the properties within 150 feet get mailed notice, and also to the recognized organizations. That isn't changing, we are just adding a recommendation to include the Architectural Heritage Center and Restore Oregon to the organizations that would get notice to help get that further out into the community.

The demolition delay. Right now in the code, all demolitions are subject to a 35-day delay except if you're going to have one-for-one replacement. And what we have proposed is to eliminate that exception. So, everything would be subject to the delay.

This is where we get into the real meat of this, the extension period. Who may request it? Right now in the code, any recognized organization whose boundaries include the site. We are recommending adding any interested party.

The time of the extension. Right now, it's 120 days, and all that has to happen is the recognized organizations sends BDS a letter and requests the extension, and that extension is automatic. It's for 120 days. And when you add that with the 35 initial delay, that's a total of 155 days. What we presented on the 17th was a 30-day mutually- agreed-upon notice, and that was the issue that people were not happy with because there was

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not enough -- it was mutual so there's no teeth in it, there was no way to enforce it, and they said it was too short.

We're proposing now a 60-day delay in addition to the initial 35, which would give a total of 95 days. And that would be granted or the -- what would be required for that would be that the appellant submit an application for an appeal to BDS for the code hearings officer along with a fee or fee waiver and supporting documentation showing they are actively pursuing an alternative to demolition.

Who can appeal under the current code? It's the applicant for the demolition permit is the appellant now. And what we're proposing is to switch that so that whoever is asking for the extension is the one who has to request the appeal. And right now, the burden therefore -- because the applicant is the one who is filing the appeal -- they have to show that the recognized organization that requested the extension is not making a good faith effort to work on an alternative to demolition. And they have to pay the appeal fee, which at this point is \$1300. What we're proposing now is to shift the burden so that the appealing party shows that they are actively pursuing an alternative to demolition.

What we've got here are four criteria. The first one is showing notice that you've tried to contact the owner. This we're doing via certified mail, although we certainly will encourage people to talk directly to the property owner, but at least with the certified mail we know we have an objective criteria to know they've actually reached out and tried to contact the property owner.

The second one -- this one is the property has some significance to the neighborhood as demonstrated by architectural significance, the age and condition of the house, or some other factor. This is in response to some feedback basically that the council gave at the September 17th hearing that you know, obviously not all old buildings are worth saving, so there should be something that shows why this particular structure is important. In addition, a plan to save the structure. So not just saying, OK, we like this building, but what are you going to do? Show us something concrete that shows that you can do this.

The last one -- I really appreciate the input of the United Neighbors for Reform because they helped us craft this one -- actually, they crafted it, which is great because it gives some nice objective criteria for the hearings officer to apply, which includes providing a pro forma budget and evidence of either funds on hand, or a fund-raising plan sufficient to meet that. So, that creates basically what the code hearings officer would use to determine whether they're actively pursuing the alternative to demolition.

This slide shows what happens as a result of the appeal. So, if the burden isn't met, then right now under the ordinance -- if it is met, I'm sorry, then the BDS can issue the permit. And under the proposed revisions, if the applicant for the appeal meets the criteria, then they get an additional 60 days in addition to the initial 35 days. That's a 95-day window. If they don't meet that burden, then BDS can issue the permit any time after receiving notice of the decision.

What we were trying to do is create a finite universe so it can never go past the 95 days. So, this third bullet basically explains that. Let's say somebody comes in on the 35th day and they file their application for an appeal. And then if the code hearings officer doesn't get to the hearing for another 30 days and then their decision doesn't happen within that 30 days after that, you've got your 95 days have expired. If that happens, then BDS can issue the permit regardless of whether the hearings officer has rendered a decision because it's a 95-day maximum cutoff. That gives the balance we think between the finality for the property owner and 95-day window when the issuance of the permit is stayed.

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Then this just shows again that the exception to the notice and delay -- we are recommending removing that.

One of the other issues that's been raised in conjunction with this is the deconstruction issue. It came up a little bit at the last hearing, and we've talked with BPS and DRAC and UNR. Deconstruction is kind of just a slow and green version of demolition. So, we wanted to make sure that we addressed this properly. We think that BPS -- and BPS thinks that they're the better organization to be taking the lead on this with input from DRAC.

One of the issues is the code that's before you is basically regulatory -- what you can do, what you can't do when you're engaging in a residential demolition. And deconstruction is different because it's an incentive program. It's what are we going to give you for doing deconstruction instead of demolition? So, it really is a different consideration that I don't think belong in a code, and the stakeholders pretty much agreed it was better to put that off and discuss it with the right stakeholders and all of the right stakeholders, because we were focused on the demolition pieces that we had. And so, the deconstruction -- we didn't have any deconstruction experts, and we didn't fully vet it.

This last one here is just the major alteration and demolition comparison. On the major alterations, all we're doing for that is seeking -- it give as 35-day delay from the time that somebody posts notice, they have to put door hangers on surrounding properties and email the recognized organizations. And the purpose of that is to make sure that the surrounding property owners know if there's one of these big alterations where they're taking down half the house or they're adding a story or something like that. So, that's just a recap.

These last two slides are on the fee. So, the appeal fee is \$1300 and it's a fee that's charged by the code hearings office. It's not a fee that we can waive, and they won't waive it. They don't have any way of doing that, nor will they. So, basically it's something that if we want to waive the fee, we have to come up with the money from somewhere because we can't use our permit fees. State law restricts how we can use our permit fees to things related specifically to the implementation of the permit and inspection program.

On this last slide here, this shows the total cost. The first part of this is the notice and our projected -- we project about 370 permits for the demolitions and about 3500 for the major alterations. That just shows the mailing costs and the staff time at about \$46,000. Then related to processing the appeals and any of the other associated tasks with this, we anticipate it might take up to a full-time employee at \$80,000. And then we're kind of shooting in the dark here on the appeal fee waivers, we have no idea how many are going come in, so we just made a projection at 20%, and that's what that \$97,000 is based on. With that, I'll take any questions.

**Fritz:** To be clear, we're not questioning that right now. The Development Review Advisory Committee subcommittee is going to continue working on the issue of what fees could be added to the permit fee and what cannot, and then we'll be having a late add into the budget or perhaps into a BMP so that Council will have that decision to be made separately. We just wanted to highlight for everybody that there are costs involved, and not all of them can legally be assigned to the person applying for the demolition. So, there will need to be some general fund allocation.

**Hales:** And the waiver policy we have for neighborhood associations applies on the appeal side here, as well?

**Fritz:** It does. It's very similar to the land use review process, however, with land use reviews it is legal to tack that additional cost on upfront permit application fee. It's not for this process. We wanted to mirror it so that no neighborhood association is prohibited from

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appealing because of the cost. On the other hand, we don't have a readily available bucket to get that from. And so, we wanted to flag that for you, Mayor.

**Hales:** OK, good.

**Fish:** I have a question, and it has to do with the requirement on the burden -- when you listed the burdens that someone has to meet to get the extension of delay, you have in there a certified letter, a copy of a certified letter to the -- I guess, developer.

**Thorington:** Property owner, yeah.

**Fish:** That's a pretty high bar.

**Thorington:** To send a letter, certified mail, return receipt requested?

**Fish:** I'm just saying it's a high bar generally because as a recovering lawyer, you know, you can send a letter as a lawyer and just attest that you sent it and there are few requirements in the law that require certified. But I had a different question. Let's say you're up against the deadline and someone comes in and they've given actual notice, but they don't bring you a certified letter. On that technicality, could they be denied their relief they seek?

**Thorington:** The way this code is written, yes. Because what we're trying to do is keep BDS staff from having to make that determination as to whether what you've done is sufficient. So, in my experience in code writing, it's pretty common to have a certified letter requirement. We have it in the zoning code as well. All you have to do is show that piece of receipt that's stamped by the post office that you sent it certified. It doesn't have to have come back.

**Fish:** I understand. That's why I'm thinking -- I'm just imagining someone coming on the last day you can do this and it's a national holiday. Or there's some other reason. Is there a -- are we giving you the discretion to waive that requirement if you know -- if someone presents evidence that they've actually contacted the landlord?

**Hales:** But how would they do that, Commissioner? I understand the concern about the burden that you raise, but if we need proof the property owner has been told, how would you get that but for the certified mail?

**Fish:** Well, you actually have no proof that the certified mail has been or will be received.

**Hales:** That's fair -- well, return receipt requested, though.

**Thorington:** That is true. And like I say, we're encouraging people to at least -- in addition to make actual contact. But in talking with staff, there was just really no way to write it into code that all of the different possible permutations -- I mean, there might be something in an implementation in an administrative rule that said if you had something signed by the property owner saying, yeah, we've been in discussions.

**Fish:** OK. No, I understand why you'd want a certified letter but I'm just thinking of the hardship case of someone who otherwise complies with the spirit of the rule but because of a national holiday or something or some life event can't to the post office. I can't get to the post office with my day job. Sometimes I'm in hearings all day, so I just wondered if there is that exception.

**Hales:** Fortunately, most people have normal jobs, unlike ours.

**Thorington:** Hopefully, they wouldn't wait until the last day, either.

**Fish:** Maybe something we could talk about through the regs at some later date.

**Hales:** Right. Other questions or issues to flag? I'm sure we'll have more later on.

**Thorington:** Thank you.

**Hales:** We have some folks signed up. I believe we first have people who signed up to testify at the last hearing but didn't get the chance, so we should call that roll first. Hopefully many, if not all of those people are here. Then, we will move to those who have signed up to testify on the amendments today. Come on up. Good afternoon.

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**Scott Yelton:** First of all, thank you for this opportunity. As you know, I just missed the deadline last time and I was really afraid I wasn't going to be able to speak.

**Hales:** Thanks for your consideration about that. Please put your name in the record.

**Yelton:** My name is Scott Yelton. I'm here wearing a lot of hats, but one of them is I work for a company called Lovett Deconstruction. We are a deconstruction company. We basically do demolition by hand, so we are tearing down structures using our hands and hand tools. A lot of what we are doing is salvaging materials and what we are doing is releasing that burden on the environment. Did you know that one third -- this blows my mind -- one third of all landfill material is from residential home demolition debris? We cut into that. We salvage materials that can be reused in the building process: 2x4s, 2x6s, the structural lumber that can never be replaced -- unless we clear cut old growth forests -- but if we do that, I'm going to come back and testify again that we shouldn't. So, it's a solid service we're doing to the environment alone and it's a material that's in demand.

I think one of the unheralded benefits -- the unheralded benefit of demolition is that it takes time. I can hear the eyes roll behind me, because those developers want time, there's not enough time in the day. But we have the time to run safety protocols. We have the time to identify and dispose of toxic materials, such as lead and asbestos. This is the completely opposite of what you get with a backhoe and a guy who can raise a cloud of dust in one day.

But I think most importantly, we have the time to actually touch base with the community. Time and time again, I've seen it on the project site where the neighbors come up to us. Typically not on the first day -- it takes them a moment to realize what's going on -- and express their fears, express their concerns, and express their anger at times with us. But we have that time because we are there day in and day out listening, also expressing our opinions and our objectives that we are salvaging this material, that we can reuse this material. So, I think there's a bridge there that we are making that demolition does not do, a guy in a backhoe does not do. So I know we are given a wink and a nod that we will kick deconstruction down the road, but I hope the spotlight doesn't fade and that we can stand up and make a mandate for deconstruction. Thank you so much.

**Hales:** Thank you, thanks very much. Welcome. Are you ready with your PowerPoint?

**Shane Endicott:** I am, thanks. My name's Shane Endicott, and I'm executive director of Our United Villages in the Rebuilding Center in Portland. We're a 501(c)3 nonprofit started by all volunteers here in Portland. It took two years, and we launched the Rebuilding Center in 1998 and we still have a lot of volunteers but we also have paid staff in six departments.

A few things I wanted to point out is that I'm really excited to share information about deconstruction because when we started this, there was no all-year-round deconstruction program in the United States. Today, they're popping up all over the country. And also, deconstruction is very aligned with the city's political goals and seen on the website and all of the visioning and projects that have been going on.

I'm going share a video here -- I don't know if we could do the lights -- but this is a demolition. I'll share a comparison and some information as it's running. [video playing] So, as you can see, it happens very fast -- [laughter] -- but what's tied up in there is a lot of old growth. That stuff if it was still in the forest would be protected, and it's worth a lot, a lot more than anything you can buy today. In fact, you can't get the material that's tied up in there today.

If you notice, you'll see one gentleman jump out of there. Now, the next video you're going to see is deconstruction. We create six to eight jobs for every one job in demolition, six to eight using deconstruction for everyone -- livable wage jobs. Also, it supports small businesses all over the city. A lot of people buy the materials to feed their businesses. If

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you've been in any of some of the big stores in any business district in Portland, you'll find used materials have been incorporated. It's beyond a style, it's an ethos, and we're just barely tapping the opportunity that sits there economically with jobs as well as savings to our community.

Since the Rebuilding Center was opened, we have raised over \$25 million, but it's equated to \$75 million in savings to our community and we're just scratching the surface, we're barely touching it. There's literally millions of economic dollars to be reinvested back into our city, and I can add up easily over a thousand jobs of how it all feeds, and we have people coming from all over the country. Am I over? [laughter] It was three minutes last time, I apologize.

**Hales:** Yes. That's fine, very well done. Appreciate the videos, those are pretty amazing. Thank you.

**Endicott:** Thank you.

**Hales:** You're next. You also have graphics, OK.

**Cliff Goldman:** I've got a picture -- it's worth a thousand words. Mayor Hales, City Commissioners, my name is Cliff Goldman, I live in Northeast Portland. I want to thank you for this opportunity to make my comments to you as resident of the Beaumont-Wilshire neighborhood, ground zero for demolitions and buildings of tall, skinny houses.

Mayor Hales, the Oregonian on January 31st had this article in the newspaper about you're going to be running in 2016. I'm very encouraged by the speech that you made to the City Club and the policy prospects -- I think they're great. I hope I can support you then. I especially liked the policy prospect of demolitions. Hales wants to create rules on neighborhood infill to make, quote, demolition a less attractive option.

Oregon's population is growing -- more people, and people have to live somewhere. I'd rather see greater urban density as opposed to ever expansion -- pushing out, if you will -- of houses beyond the urban growth boundary. This is Oregon, we're different here. This is Portland. I don't think it's weird to want to preserve the character of our neighborhoods. Now, developers want to make money. Construction workers and contractors want to work -- I understand that. Houses don't last forever. The construction of new housing is inevitable. The rebuilding and/or refurbishing of what is is natural, but it must be done right. We shouldn't build a new home without an eye to architectural compatibility, I believe.

A picture is worth a thousand words and you can see the tall skinny house there is out of place. This home on NE Skidmore does not fit. There's something wrong with this picture. Not just the aesthetic insult to the eye but blocking of solar access, eclipsing the sun, affordability in the sense of marring of the neighborhood. [beeping] I had three minutes last time.

Let's go ahead and rebuild where we have to but to do it in a way to enhance the neighborhood's cohesiveness and is pleasing rather than shocking to the eye. We in the Beaumont-Wilshire neighborhood care what the neighborhood looks like. The developers do not. Can't we rebuild and have new homes that are included rather than simply being imposed upon us? Please do what's in your power to do zoning changes, height limitations in accordance with surrounding homes to make the city that you rule to be worthy of the hard work that you do in making our city livable for all, not just profitable -- the blank profitability for some. Thank you very much.

**Hales:** Thank you, thank you all for coming. Thank you. Tamara, I think you're on first.

**Tamara DeRidder:** I'm Tamara DeRidder. I'm chairman for Rose City Park Neighborhood Association and I'm here to speak on their behalf. The Rose City Park really supported the UNR resolution's intent -- not some of the specifics, but the intent. And I want to encourage all of you to support the mayor in the creation of the infill task force, and with that look beyond just cosmetics of the house but also at dealing with the massing and the rhythm,

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because there's other things such as creating three homes on a corner lot -- which causes a mass much bigger than what is typical -- and there's also split lots. And so, add that to your list, if you would.

Also, deconstruction as mentioned is to be looked at and should be looked at. It's an important part of our heritage.

I also wanted to make sure that you didn't miss updating the Historic Landmarks Commission inventory. Right now, nothing east of 82nd is on that inventory and that's because we didn't annex it until later. So please, don't miss that.

One thing about the ordinance change. I'd like you to take a look at section J. In that, it makes no sense that it adds 60 days from the day BDS receives the complete demolition permit. It should be after the 35-day notice. If you're adding 60 days, it shouldn't be prior to the five-day notification period that the staff has, and then on top of that there's a 35-day notice to the public. If you would look at clause J for that issue.

**Hales:** OK, thank you.

**DeRidder:** Thank you.

**Hales:** Thanks very much. Yes, I'm trying to look at the modification of J that's described in the amendments --

**DeRidder:** Yeah, and the amendment in the middle of it, it says, 60 additional days from the date BDS receives the complete demolition permit application. So, that doesn't make sense because it reduces it down to a total of 55 days.

**Hales:** I get it -- it does say 95 days.

**DeRidder:** It should be after the 95-day notification period.

**Hales:** OK, we'll check on that. Thank you. Mr. Wood?

**Justin Wood:** Good afternoon, and thank you Mr. Mayor and members of the council. My name is Justin Wood, I'm with the Homebuilders Association of Metro Portland. I'm also a builder with Fish Construction, we do a lot of infill housing. I'm a local second generation builder. I want to thank staff, BDS, DRAC, and all the staff that worked on this. I do have several thoughts and comments about the design standards and compatibility, but I'll hold those where they're relevant.

City Council tasked the DRAC back in 2014 with solving the issue of demolition. I think DRAC has worked hard on this issue and has come back with an additional proposal. City Council asked them to go back and make some tweaks, which they have done and they've sought out approval of groups such as UNR and Restore Oregon. I think they've done what they've tasked and so I would ask the council to support the resolution they have in front of them.

Additionally, I'd just like to add a little bit of commentary regarding the importance and need of demolition, redevelopment, and infill to our area. For one, our company -- most of the houses we build are geared towards first-time home buyers. A lot of them are built for people buying at or below median family income. This argument lately about demolition seems to be painting the picture that every house that's been torn down has been a big house and every house that's been replaced has been a half million dollars or more. I can specifically tell you -- and some others will hear as well -- a lot of these houses being torn down are small little houses, and they are being replaced with small houses for starter families. So, keep in mind that there is a spectrum, it's not just large houses and it's not just McMansions -- if people want to call it that.

This has also been described as not being a density issue. Yet in 2013, the City of Portland reported 283 demolitions resulting in 553 units. So it is an increase of 100% density on those lots.

Lastly, much has been made that we can put all our new growth and development in this region into the centers and the corridors of the downtown areas. Yet, I think it's

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important for neighborhood associations and residents of the city to know that as Metro and the City of Portland are working on their growth projections for the region, the City of Portland says as part of the 2014 urban growth report that they can handle 15,000 new single-family homes within the city of Portland. And of that, 9400 are through infill -- and this in the next 20 years. And I can tell you as somebody who looks for land and buys land that there's not 10,000 vacant lots in the city of Portland. If we are going to meet what we're telling Metro we're going to do based on our growth, we have to have infill and demolition to do it. If we don't want to do this, then that's a separate conversation we need to have with Metro. Thank you.

**Hales:** Thanks very much. Welcome.

**Jes Larson:** Hi, good afternoon. Thank you, Mayor Hales and Commissioners for welcoming this testimony. My name is Jes Larson, I'm with the Welcome Home Coalition, and we are a group of housing advocates, affordable housing providers, and community members, educators, health care providers, labor, folks interested and concerned about affordability in our community.

We are grateful for all the work that's gone forward to get us to today with the DRAC committee and everyone involved in this work, and we just want to put something on the table for your future consideration and that is the idea of demolition fees as way to mitigate lost affordability in the case of some demolitions. We have a good example of some fee structures in use outside of Chicago. There are a group cities that use an elevated fee structure to do a couple of things: to deter some demolitions from occurring when it's not in the community's best interests or it doesn't increase density, where it doesn't create new affordability. But when demolitions do go forward, in the case of these cities, a \$10,000 fee is collected and contributed to an affordable housing account. That affordable housing account then gets used to help mitigate the loss of some of that lost affordability through some demolitions, and it is allowed for first-time homeowners who aren't able to break into the market to have extra funds to purchase their first time family home.

We are very interested in this as one tool that the city can look to as a way of addressing lost affordability, gentrification, displacement throughout our community. We know here in Portland that a lot of tools that communities are using across the country are off the time table for us for our local use to mitigate affordability, and when there are tools still on the table, we hope that we can look to using them for the best outcomes for our communities. Thank you.

**Hales:** Thank you very much. Thank you all. And thank you all for being willing to defer until today. Guess you're on first, Karen, and your colleagues are waiting politely for you to be first.

**Karen Karlsson:** Karen Karlsson. Mayor Hales and Commissioners, I have a lot to say, so I'm going to probably roll over my two minutes.

Demolition is about a lot of different things. It's about historic preservation and neighborhood livability; public safety; social equity; and very importantly, housing policy. The demolition code changes before you have been looked at only through the eyes of BDS and the DRAC. BDS and the DRAC do not make city housing policy and are not responsible for historic preservation and are not leading the comp plan process. They should not be the only bodies looking at the issue of demolition; many points of view must come together.

I'm going to jump into the meat of my testimony, though. The newest proposal provides for a 35-day delay with a 60-day extension upon proof the following criteria have been met: request a meeting with a certified mail, provide evidence of the significance of the structure, develop a plan to save the structure, and show reasonable potential to consummate the plan within the 95 days by providing a pro forma and evidence that funds

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are on hand or a fundraising effort is sufficient to meet the financial requirements. That's a lot. That's a big amount of work.

And the hearings officer -- what criteria do they use to determine if a structure is significant? What about if a plan is reasonable? If the developer says, "I'm not going to sell the property" then the plan's not reasonable. If the pro forma is feasible? I don't know hearings officers who know a lot about analyzing pro formas. And is the fundraising plan feasible? I think that's a big question.

So, part of this is a lot about process and timeline. Most neighborhood associations meet monthly. To request an extension, the neighborhood association must vote in support of the plan at a public meeting with notice requirements. This must happen now within 35 days of when the notice is mailed. Based on that timeline alone, I doubt that it can happen. Even ONI recommends that neighborhood associations need 60 days to make decisions on important issues.

In conclusion, I think that the present 120-day delay does have flaws, but the proposed code change is neither a compromise nor a real alternative. Effectively, it trades a 120-day delay for 35 days. The 60-day extension is very unlikely to ever happen. So, let's be honest about it. Let's either keep the 120-day delay until a real proposal is developed, or eliminate it all together. Please don't prevent it's an acceptable solution.

I do want to add two more parts. I do think we need an automatic 120-day extension for anything that's on the historic resource inventory, and that you cannot remove something from the historic resource inventory for 120 days. Right now, you can remove it in one day and there's no demolition delay required.

Secondly, all of this is placing the burden on the neighborhood association. There is already precedent in code that many developments require neighborhood contact by the developer. It's in 33.700.025 -- you can look it up yourself. If we could place the first step burden of notice on the developer to notify the neighborhood association that they are planning a demolition and then require them to come in with that proof, then the neighborhood association has a chance to maybe in that next 35-days pull together a plan. Otherwise, it'll never happen.

**Hales:** Thank you. I gotta check -- are we sure that all the criteria that you mentioned are still in the code?

**Fritz:** They are.

**Hales:** You didn't take any of that out in the amendments?

**Fritz:** Right.

**Hales:** So, those specifications for what you have to do to get the 60-day extension are all --

**Fritz:** Right.

**Hales:** All as they were? OK.

**Fritz:** Well, they are revived but --

**Hales:** But they're all still there.

**Fritz:** Yes.

**Hales:** The ones she just iterated are all still there in the draft.

**Fritz:** Yes.

**Hales:** OK, thank you.

**Becky Luening:** Thank you, my name is Becky Luening, I'm the chair of the Woodstock Neighborhood Association but I'm not here in that official capacity today, although I do want to mention that we were the fortieth to sign onto the UNR resolution and our name was not read at that December 17th hearing -- so you can add us to that list.

I want to urge you to take swift, strong action to slow the rate of demolition and redevelopment in my neighborhood. At minimum, I hope you will fulfill the request to create

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a task force, and I would recommend Eastmoreland neighbor Rod Merrick as a good candidate for that task force. If and when the task force is formed, it would be great to include a representative from Woodstock as well. We are one of the hardest-hit neighborhoods with regard to demolition and McMansion developments.

I understand the need for infill, for creating more density in the neighborhoods. I'm bothered by the things that are being displaced in the process, including light and privacy and garden areas where children can play and water can be filtered, not to mention many high-value mature trees. I can let some of those things go. There are nice developments that happen when people split off their side yards or their backyards.

The most disturbing trend in our neighborhood is we're seeing a lot of sound, affordable homes being demolished in order to split the lots and erect two very large homes where there was once one. As we speak, one block south of where I live on SE Steele both east and west of 60th, there are three new developments underway, bringing six new very large homes in. All this activity causes feelings of instability among neighbors. It makes us realize that every single property in our neighborhood is vulnerable to redevelopment. It raises people's fears about being priced out of their own neighborhood. Homes that sold for an average of \$250,000 are being replaced with new homes that are selling for more like \$470,000. And this is not what I would call infill, this is what I would call redevelopment and wholesale redevelopment of our established neighborhoods does not fit with the city's stated values of diversity, equity, and especially not sustainability because these homes take 50 years for the ecological -- whatever cost to be absorbed by the environment.

So, I urge you to create the task force that can look at these issues. I've heard that other cities -- maybe Seattle or Austin, Texas -- have found ways to address this big box development trend because it's something that people feel in their gut that something is out of whack here, the lack of consideration of context and scale of the existing neighborhood. In Portland when we were shopping for a home -- my husband is a double amputee and access can be difficult when there's a lot of stairs -- and there's a dearth of one-story homes in Portland, especially close in. Woodstock is like the new close-in, I think that's what's the driving this trend, the market forces obviously. Very few homes -- nice ranch homes that built by owners in the 1950s are now being torn down only because they are on lots that are seen as double lots.

One thing that could be done to address the trend is to go back to respecting the R5 zone as meaning 5000 square feet instead of 3500 square feet. Another thing would be to increase setbacks or tie setbacks to heights to try to make homes just be a little more modest or at least not to have such an impact on the house that's right next door five feet away. Do away with some of the variances that are so routinely granted through BDS permitting processes. Officially recognize the historic 25 by 100 plats as building blocks, not buildable lots. There's a lot of small tweaks that could be made, and I know a lot of people in Portland are studying this and could figure out some fixes pretty quickly. And still, there would be plenty of opportunity for development. Thank you.

**Fritz:** Becky, thanks to the Woodstock Neighborhood Association for bringing the appeal to Council late last year regarding a lot that was comprehensive plan designated R2.5 but it was in an R5 zone and the council denied that application. Following up from that, I've sent a memo to the land use services in Development Services to clarify what's now the council's interpretation of our code. Because let's be clear, there are some lots where a demolition is allowed pretty much by right --

**Luening:** I understand.

**Fritz:** And then there are other lots where it also requires a partition or a land division or as you say, some kind of a variance or adjustment. And so, I've given directions to the bureau

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holding applications to a higher standard. And that does include some assessments of context, particularly on those 25 by 100 lots or where the request is for less than the standard in the R2.5 zone, which is 36 feet. So, I'm going to be posting that on my website probably tonight. I just wanted to let you know that there are other things we can do right now. What the mayor is talking about is leading that task force through the Bureau of Planning and Sustainability to make sure everybody and all stakeholders -- the development community as well as the neighborhood communities -- have input into what we want to have happen moving forward. So, thank you to Woodstock for your leadership on that.

**Luening:** May I respond a little bit on that? I wanted to mention -- because you mentioned the property at 3936 Reedway -- that was a zoning change to 2.5 and it will be split into three lots -- I'm assuming those developments will happen in a different configuration. And the neighbors who live over there wish that they could stop it or change it somehow.

This is the most challenging thing about addressing this issue is that every neighborhood is different, and when you talk about character of a neighborhood, that's very difficult to define. That particular section of our neighborhood is the most historic, and I would argue the most needful of preservation. And yet, because it's one block off of SE 39th and the city came up with this idea that homes that are close to transit corridors -- or lots, rather -- should have a designated zoning of 2.5 to increase density along those corridors. That puts that part of our neighborhood -- the most historic part of our neighborhood -- makes it more vulnerable. So, it would be nice if there were tools that neighborhoods had to work with the Bureau of Planning and Sustainability to -- I mean, I know it's a lot of work. We're talking about staff time and volunteer time --

**Fritz:** Well, that's what we're doing --

**Luening:** To be able to say, in this section of our neighborhood, we think this should have these certain guidelines applied. Right now, you're talking about whole Southeast and Northeast having one kind of comp plan.

**Hales:** Oh, not necessarily.

**Luening:** Well yeah -- anyway, I could go on and on obviously.

**Hales:** We'll give you that chance.

**Luening:** Thank you.

**Fritz:** Thank you.

**Tanya March:** Hi, my name is Tanya March, and I'm confused and concerned about some of the definitions. One of my confusion points on the burden section was condition of structure. That seemed very vague to me. I think demolition by neglect is an issue for me. If somebody has allowed a property to deteriorate, how does that then allow them to meet that burden test? In some cities, if it's going cost more than 50% of the market value of the property to do restoration, that's the burden -- this condition of structure was so amorphous it didn't really have a definition, I was concerned it would be left like that.

Another concern I had was this burden of \$1318. On the one hand, it sounds like us, the taxpayers, are going to end up paying that no matter what and that concerns me. Maybe \$50 or something. I just -- it's like a prescription. They charge you five dollars because if you get it for free, it doesn't have value. You should at least come up with \$50, something very small but something reasonable, sort of like that certified letter. I get nervous when I hear "free." I'm only speaking for myself because I know that may not be the most popular thing. With only the neighborhoods being able to get this exemption, I'm really concerned with that 35-day turn-around, wouldn't it be wonderful if some of our nonprofits also had that same ability?

I saw those videos with those clouds of dust that could be asbestos and lead, and I'm not a big proponent of deconstructing buildings, but I'm in favor of taking in place

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asbestos and ceiling in place. I'm really concerned that demolition is having a health impact on our communities.

**Hales:** Good afternoon. Teresa, I think you're on first.

**Teressa Raiford:** Alright. My name is Teressa Raiford for the record. There's a lot of smart people here that are in development and planning. We have friends with PhDs who understand a whole lot more about gentrification than I do. And I know we're here about demolitions, but to me it equals into demolitions and gentrification.

I first heard the word from my friend Cathy Galbraith who's with the Architectural Heritage Center a couple years ago when I had a name tag on my shirt that said Raiford and she referenced a building that's owned by my family that she thought maybe I had the power to stop from being demolished like a lot of other buildings in our community. And with that charge, I'm looking at her like, what do you mean? The neighborhood looks beautiful, it's developed, it's gorgeous. I had been living in Texas for about 15 years, so to me it looked beautiful and the old neighborhood I grew up in. What she was telling me was that by these buildings being demolished and not preserved, that the character of the neighborhood was changing and people wouldn't recognize it.

My lens changed when I went up and down the streets of Mississippi, Vancouver, Fremont, Martin Luther King, and other areas in my community. And when that lens changed, my listening also changed. The words that were being told to me by different people in my community about that's not our neighborhood, we don't belong there, or people we don't belong there, or they took that from us -- all of those different conversations changed my lens. So, I wanted to learn more about demolitions, preservation, gentrification. What I found out there are a lot of people in our communities across the country that are left out of these conversations about community and economic planning. And that because they are being left out of these conversations, they're feeling like their rights have been violated because their memories are being taken away along with the neighborhoods they have grown up in, just like mine.

And so, with everyone asking about this 120-day delay and possibly 155, I'm thinking that what it does is it gives us an opportunity for organizations to create foundations in communities like mine so that people like myself that aren't familiar with these terms have someone to go to so that they can figure out what power they have in maintaining something that is valuable to them. So, thank you.

**Hales:** Thank you. Thanks very much. Good afternoon.

**Jon Wood:** Good afternoon. My name is Jon Wood, and I'm in the Stop Demolishing Portland Facebook group but I don't necessarily represent them. I think the first thing I wanted to say that while I think densification is a good thing for a variety of urban services, in some ways it's been oversold as a way to save down valley land. Just for example, New York City is one of the densest cities in America and it's a sprawling city. And there are other examples like that.

Two, I'm concerned about who can appeal in the length of the period of time. If it's just left down to neighborhood associations -- I served on a Northwest Portland one, I was involved in Burnside when it existed, and then gone to the Lair Hill. They're good models but ultimately, if you're going to get them to act, it's the board of a whole section of town and that doesn't necessarily reflect one neighborhood within it, and even one neighborhood within it may not reflect everyone who's there. Not through meanness but just -- so, in Northwest Portland when I was on the board, most of the time there was no one who lived in the apartment blocks. Fortunately, they were kind and considerate, but that's a lot of weight to put on the good will of certain people. In Lair Hill, Naito Drive is good for people further southwest but if you talked to people in Lair Hill, they would just as soon lose it.

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Thirty years ago, my mom got divorced, didn't have any credit, worked in bookstores for 30 years, and she wanted to buy a house. And she managed to find a way to buy on contract, and it was our family's get together for five years fixing up this house. She had a chance at home ownership of property. This is by John's Landing. On the next street, there were plenty of people doing exactly the same thing. And I remember we were taking a break from fixing the house -- this was probably in '76 or '77 -- and we just heard that parts of the John's Landing area was being up-zoned. So, even as we were trying to save these houses and get 40 years of life out of them, they were potentially to be demolished. Thank you.

**Fritz:** Just to clarify, any interested person can ask for the extension, it doesn't have to be only the neighborhood association.

**Hales:** Right, that's changed.

**Wood:** Alright, that was changed -- excuse me.

**Fritz:** In response to testimony. Thank you.

**Hales:** Thank you all. Before we switch to the next phase of this where we have people signed up today about the amendments, let me just follow up on a couple of these points because there have been great points raised in these discussions here among the council and in the hearings. I do intend to ask the Planning Bureau -- and I know Commissioner Fritz intends to ask the Bureau of Development Services -- to do some additional work based on what we've heard.

One is for us to develop a concept for a deconstruction program. It is an incentive idea rather than attached directly to these requirements that apply to demolition. So, we're going ask the Planning Bureau staff to develop a proposal for deconstruction program. We're not quite sure how that's going work yet but again, we're going to have them develop a concept with citizen input for how we can make that a more attractive option. Because although obviously as we've heard the practice is increasing, there are costs and time involved. We want to try to make that an attractive option and we're going have the Planning Bureau staff working with others to try to take the lead in that.

Secondly, the subject of hazardous material has come up and I think we should ask the Bureau of Planning and Sustainability and the Bureau of Development Services to explore that issue and bring us back some recommendations. What we can do or what we should do about better controlling hazardous materials on the site? We've got testimony earlier about other cities -- Tualatin, I have their application here; Lake Oswego, their application here for a demolition permit. In their cases, they do require a more comprehensive approach to mitigating the potential environmental hazards that are involved. So, it's one that we ought to at least explore.

**Fritz:** Just to clarify on that, we have made changes in the Bureau of Development Services application processes that didn't need to come to Council with that.

**Hales:** Oh, OK, good. So we may not have to do anything in code?

**Fritz:** Well, I think Planning and Sustainability could continue to look to enhance that, but we have made some changes. And as you say, we don't need to necessarily make it in code.

**Hales:** Yeah, so we're going to keep looking at that issue. And most specifically on two other points, I am going to put a proposal forward in my proposed budget to update the historic inventory because we know we need to do that, we are way behind, I think there's a strong interest on the council on getting that work done. It will affect this issue and a lot of others. It costs money and will take staff time, but I think it's worth doing.

Finally, I'm going ask the Bureau of Planning and Sustainability to come back with proposed new standards for infill and redevelopment and take up some of these issues that have been described. We are going ask for public involvement in that. So obviously, if

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you're interested in that let my office or the Planning Bureau's office know. I know there are a lot of people in this room and in the community that have expressed an interest in working on those questions of what do we do short of perhaps outright single family design review -- which I don't frankly don't think is practicable -- but to change the setbacks, to change the height, to change the lot coverage requirements in order to achieve more compatibility. Those are at least in my mind the rough parameters for what we might adjust to try to address some of these issues of the scale of what's being done through redevelopment and infill versus what's there already in the neighborhood.

So again, in none of these cases do I think I or the bureau or my office has figured this all out yet. But in each case, I think we want to go on from the first set of issues which Commissioner Fritz and the bureau brought forth here to deal with demolition itself, and then look at those front end issues of what is our planning code encouraging or discouraging, allowing or not allowing in the form of development, and what are we regulating about the impact of demolition in terms of these environmental issues? And then again, have we got a proper inventory of the historic buildings in our city? No, we don't. We need to update it.

So, those are follow-on actions that some combination of Planning Bureau and the Bureau of Development Services -- and probably some others as well -- are going to be tasked with based on where we've gotten so far in this discussion. I just wanted to respond with those points now because again, we've got more people signed up. But what we're going to now be acting on based on the discussion so far is this set of amendments. So, please do focus your comments today for those who are signed up now to really focus on the amendments today and understand that those other issues are going come back to the council -- in some cases in fairly short time.

**Fritz:** And Mayor, my understanding is that the Housing Commissioner is going to be looking at the request about could there be additional --

**Hales:** Right, there's an affordability issue there as well, which is how do we perhaps support affordable home ownership through revenues derived from demolition? I know, Dan, you and the bureau want to look at this question.

**Fish:** Mayor, can I ask a couple questions? First, I appreciate the scope of the issues you've tasked people to come back to us on. With respect to hazardous materials generally, since I now have some direct experience with this in my neighborhood --

**Hales:** Yes, you do. [laughs]

**Fish:** And because I believe houses built in the '20s in particular are more likely to have at least two kinds of hazardous materials that would be -- I appreciate that Commissioner Fritz said the Bureau of Development Services is addressing that in some way. What I would appreciate is just some written follow-up to explain what the status of that issue is.

**Hales:** OK. That's good.

**Fish:** I could do my own homework but if someone could point to me to what the code provisions are and how we regulate that, number one --

**Fritz:** Well, Director Paul Scarlett is here, he could give a 30-second summary of what we're doing on this issue if you like.

**Fish:** That's fine, but I don't want to hold people up testifying.

**Fritz:** OK.

**Fish:** Number two, Mayor, on that question of what Commissioner Saltzman is going to look at with a potentially a fee for affordable housing and the other issues that you've identified, what's the timeframe that you're going to set for something coming back to us?

**Hales:** Yeah, I think some of these things will take longer than others. On the issue of hazardous materials, I think that one can be done pretty quickly, probably 90 days. What

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are we doing now? What more should we consider? But Paul, why don't you come up and respond to that and see if that's a reasonable timeline.

**Fritz:** With anybody else that you want to bring.

**Hales:** And he's not Maryhelen.

**Maryhelen Kincaid:** You have to guess which is which. I just want to respond --

**Hales:** Maryhelen, put your name in the record.

**Kincaid:** I'm sorry, Maryhelen Kincaid, DRAC chair. I arranged for -- we've had meetings - - DRAC, BDS staff with the state -- and Chris Zimmer was here last time testifying from the state about hazardous waste materials and his work with the staff. Paul can speak to what's on the permit application.

But we've also arranged for a gentleman by the name of Tim [indistinguishable] who's from the OCCB, and OSHA and DEQ are going to do a presentation at the ONI neighborhood summit on hazardous material handling regulations and also be there supposedly someone from Representative Lew Frederick's staff who's looking at modifications for the state regulations regarding hazardous materials because that's who handles those on-site. And then they are also having conversations with BDS inspectors of how they can interact when an inspector is on site, might see something and contract the state. Because those conversations never happened before we started this whole process. So we've made great strides, but there's still a lot that can be made.

**Fish:** Paul, on the question of say a 1929 bungalow that's taken down to the foundation and replaced by a substantially bigger house. I know in my neighborhood it's at least possible that there's asbestos and lead paint -- maybe more so in the basements, but could be elsewhere. There are dumpsters that are set up where materials are disposed of - - these things happen very, very quickly. What is the regulatory framework to make sure there's no adverse impacts?

**Paul Scarlett, Director, Bureau of Development Services:** Paul Scarlett, BDS Director. Appreciate that question. A distinction is that those sort of health conditions are managed and enforced through the state DEQ. So, to provide information to permit applicants and customers in neighborhoods, we have updated our permit application form to include information about which agency is responsible for those aspects. And so, with the asbestos and lead paint issues, BDS or City of Portland is not the primary regulator or enforcer. We have communicated who is, and it's part of the permit application which is -- can be gathered by anyone looking at it. So, there's coordination; we've reached out to the state.

**Fish:** Just since we have you, it sounds a little like what we have with cell towers, with certain health issues he were preempted from taken up but here it's dealt with by another agency.

**Scarlett:** That's right.

**Fish:** So, if someone were to come into the house in my neighborhood that had asbestos in the basement and looking to abate it, they would come in looking like astronauts. And it would be set up so that nothing leaks and the materials would be taken out in a safe way and then disposed of.

When a house is just demolished in a day or so, what's the safety component to make sure there's no asbestos or lead that gets kicked into the air?

**Scarlett:** I actually don't know the specifics of it. We do have builders here that have gone through that process and know the requirements because it's imposed upon them.

**Kincaid:** I can add one little thing. When they apply for a demolition permit, there's a box that they have to check that they're aware of state regulations and if they apply -- they've been provided information and if it's applicability to their -- I don't know the exact wording -- that they will comply with state regulations. They check those. The state's very happy for

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that because if they receive a complaint -- like you call the number that's posted and say they're tearing the house down and nobody's in their spacesuits or hazmat suits. Then when the state comes out they have proof that said they knew, and prior to that they did not have that. So, that's sort of one big piece that was put together. Again, it's a complaint-driven thing, so it's not perfect. But when they apply for the permit, probably Rob who does permits could speak much better to that.

**Rob Humphrey:** Rob Humphrey, I own a company called Faster Permits. I expedite many thousands of permits in the city of Portland and throughout the country. Most of my builders -- well, every one of my builders -- conducts a lead and asbestos survey before they even really come to me for permits. Like in the city of Lake Oswego, they simply require the same checkbox. Did you get a lead survey beforehand? And the answer is always yes, we did. And if asbestos and lead is found in that survey, you just show it has been mitigated properly through the proper channels. Because it's regulated by state agencies, you know, the contractors risk losing their CCB licenses if they don't do their mitigation. So, I hope that's helpful.

**Hales:** That does help.

**Fish:** Is the lead and asbestos survey a public record?

**Humphrey:** Yeah, it would be. In the case of a city that collects that data, like Lake Oswego -- I'm sure it's part of their public record. I don't think the City of Portland collects that data as part of a demolition permit.

**Hales:** But if we required it to be attached to the permit, for example?

**Humphrey:** I know it becomes part of the file in Lake Oswego.

**Hales:** That's worth knowing.

**Fish:** Is it your professional opinion that state law is adequate to address whatever the health impact is?

**Humphrey:** You know, I think there are folks that might demo a house that didn't do the lead and asbestos mitigation in jurisdictions that don't require proof that you mitigated for lead and asbestos, but I think those are very, very few. Again, as I said, every builder I've represented has -- if you ask, they've got it, they've always got it.

**Fish:** Thank you.

**Hales:** Thank you all. Any other questions for them? Again, in terms of timeline on these things, what I have in mind that is the deconstruction incentive and the hazardous materials issues can both be addressed pretty quickly, maybe in a matter of 90 days or so before we could see a proposal.

**Fritz:** That's my point -- we think we're done on hazardous materials.

**Hales:** You don't think we have to do anything else regulatory other than what we've done already?

**Fritz:** Right.

**Fish:** Why is that, Commissioner?

**Fritz:** I thought that was what they just explained.

**Hales:** We're not attaching the survey to the permits yet, right?

**Fritz:** We don't review that, it's reviewed by the state. So, we're requiring applicants to say that yes, they've done the forms they need to by the state.

**Fish:** Well, one of the things I'll do is -- since there's a project in my street, I'll ask the developer just to see the survey and see the mitigation thing. But what I don't want to do is foreclose the discussion before we know whether there's a problem.

**Hales:** Right.

**Fish:** And not in any way implying that BDS doesn't have an adequate system in place, but just my anecdotal evidence is this is an area that's handled rather casually and I don't

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think it's of great comfort to an adjacent property owner that it's a concern to some state agency when it's happening in our backyard.

**Hales:** That's why -- remember, we weren't necessarily asking for a specific regulatory proposal in this case but for a report back. We can decide when we see that report when we think it's adequate or not -- whether our current practice is adequate or not.

**Fritz:** We can give you the report of what we're doing for the last eight months. I'm really concerned with adding more and more tasks to Bureau of Development Services at a time when permits are coming faster than we can process them when we're supposed to be working on the regulatory code improvement project, we have the ITAP computer program that we're trying to implement and it's getting behind schedule.

As this process -- yes, there's lots and lots and lots of things we would like to discuss and like have Development Services staff working on. There's a finite number of people able to work on them, and the more we keep adding on in this project we're missing other priorities for the work plan and getting behind schedule on them.

**Hales:** I understand.

**Fritz:** We can certainly provide a report on this and what we've done and Council can give us feedback on whether you'd like to fund more staff.

**Hales:** It might require additional staff.

**Fritz:** Yes.

**Hales:** A lot of this work might require additional staff, I understand that --

**Fish:** Let me just be clear, Mayor, I'm not asking that we set up a task force to review this but I would like to have a better sense of what the existing regulatory framework is. And it may very well be the folks at BDS have some views on how to strengthen it. They might not have the resources to do it, it may not be in our priority bucket list, but I would like to know that.

**Hales:** Yeah, same here. On the other two issues. Changing our infill standards -- that's going to be a longer process of necessity because it involve a lot of people, that's probably a year-long process. Some people would like to us change those standards tomorrow morning but realistically, that's not going to happen quickly. And again, I'll have the Planning Bureau tell us how much that'll cost because that's not going to be free, either. And likewise with the historic resources inventory -- that's a year-plus process because again, it's a citywide inventory.

Both of those will involve more time, 12 months plus, and certainly in those cases require additional expenditure that we have to consider in the budget process. So, one of the reasons why I'm timing this now is because we're all going to be developing a budget here pretty shortly, but I intent to put funds in place in my proposed budget to fund those projects once the Planning Bureau tells me the price tag is and gives me a schedule of what it should look like.

OK, thank you for indulging us in a little process management here but hopefully that helps those concerned about the issues like deconstruction and infill standards and historic buildings. Now, we'll move on to the amendments at hand for those who want to testify on those today and start calling on folks who are signed up.

**Moore-Love:** I have about 42 people signed up. The first three, please come on up.

**Hales:** Good afternoon. Go ahead, Mr. Remmers.

**Vic Remmers:** Good afternoon. I'm Vic Remmers. Can I give a few things to you guys before I go?

**Hales:** Sure, give them to Karla, she'll pass it around. Thanks. And let her know if you want it back or not.

**Remmers:** Good afternoon and thank you, Mr. Mayor and members of the City Council for giving meet the opportunity to give input on the proposed new demo policy. My name is

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Vic Remmers, and I'm a current resident of the city of Portland. I've lived in Portland my entire life and I'm also one of the owners of Everett Custom Homes, a local new homebuilder.

At Everett, we've been building new homes in the city of Portland for the last five years. I'm in support of the new concept of the 35-day notification period. However, I feel the additional 60-day extension is too long and I would like to encourage the council to consider an alternative.

Over the past five years, I've attended neighborhood meetings regularly to share upcoming projects with the neighborhoods and to get input from them. Throughout all of these meetings and conversations over the years, there's only been one instance that neighbors were able to come together and purchase the home. In all of the dealings that we've had with the interested parties, we've usually been able to figure out a conclusion within about a week if they want to move the house or if they would want to purchase it from us.

The next concern I have is safety. In the past year, we pulled 26 demo permits and half of those we used deconstruction services. On every single one of those jobs, we experienced break-ins, squatters, crime, drugs, and even prostitution in the rundown houses. We all know this is not the time of activity people want in their neighborhoods.

The homes being that are being slated for demo and deconstruction are the homes that are neglected and left vacant. All the asbestos is being removed prior to demo, and I'd be happy to talk about if after -- you guys had a lot of questions about it. The materials are being recycled -- or, if deconstruction is used, they are being donated to the Rebuilding Center.

Our company created our own demo door hanger which I gave to you guys to take a look at. I brought some before and after pictures for you guys to look at.

One other thing that is kind of being neglected is there are so many positive things these new homes are bringing. They're much more sustainable than the old ones, they use less energy, less power. The new homeowners' utility bills are a fraction of those in the older houses. We're building homes close to the city and walkable neighborhoods and close to transit. On top of all that, there's hundreds of jobs created every day for each one.

Another factor in these delays is it makes it more difficult to provide affordable houses. It costs \$5000 to \$15,000 a month in delays in our costs if we have to delay it. In conclusion, I support the 35 days, but the 60 days I think is too much.

**Hales:** Thank you, thanks very much. Welcome.

**Luke Morley:** Good afternoon. My name is Luke Morley, and I'm part of the family that owns Lakeside Lumber. We've an around since 1937 -- seems like only yesterday. I have two perspectives on the proposal I'd like to share.

The first proposal is as member of the Portland homebuilding industry. The Portland homebuilding market is unique in that large national builders have never really gained traction in this market. Consequently, the typical Portland homebuilder is really a small local business owner, and a good number of them are family-run businesses, just like Lakeside Lumber. Every time I build a home, we write in the vicinity of a hundred checks to local suppliers, trade contractors, and real estate professionals, and most of those are small local businesses and some family-run businesses like Lakeside.

As a result, the positive impact to the homebuilding industry and on Portland's economy -- and in particular, small business owners -- cannot be understated. We've got a broad mix of customers at Lakeside, everything from weekend do-it-yourselfers to builders who construct highly complex, energy-efficient homes. The McMansions may get their attention on this issue, but we see a variety of homes, including a good number of smaller affordable starter homes in our mix of business.

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Ironically on the other side of this issue, although I did not grow up in Portland but I have a 92-year-old mother who lives in the same house that my father grew up in and her neighbor is a widower with no children. When he died, he was living in a one-story 1200 square foot house and the new owner wanted to tear it down and put up a three-story high-level condominium project. I can appreciate some of the neighborhood concerns on this issue. That said though, a lot of time, effort, and thought has gone into crafting this proposed amendment. The nature of compromise is it rarely makes everyone feel completely happy with the result. However, I think this proposal does a good job of attempting to balance the interests of the neighborhoods and local business, and I recommend you pass this measure. Thank you.

**Hales:** Thank you. Welcome.

**Eric Thompsen:** Mr. Mayor and members of the council, my name is Eric Thompsen. I am a small local builder in Portland with an emphasis on small and local. I'm a fifth generation Oregonian and a long-time Portland resident. My one-person company builds about 10 houses annually in the city of Portland, with most of them resulting from demos. Kind of to tap into what Mr. Morley was saying, each house is touched by hundreds of workers, most of them either earn or work for a local small business, many of them being tax-paying Portland residents.

Virtually all of our demos are houses that are beyond repair. In fact, last week we tore down a house in the Hawthorne area for a custom client and their kids had nicknamed it the stinky house. We had neighbors coming up thanking us and thanking the new owners for getting rid of a neighborhood eyesore.

I think it's interesting to note that the remodeling business is thriving in Portland. There were some numbers shared earlier about the number of major remodeling permits, not to mention minor ones, and that tells me homes that are worth saving aren't necessarily being torn down but rather they're being rehabbed, and I can't compete against a house that has value in the existing structure to build a new house there.

I think there's an image of a big out-of-town developer merely building spec homes for the highest price that they can sell them for. Well over half of our homes are customs, which means we're coming in for the homeowner who already owns the tear-down house, tearing it down a house for them, and those people happen to be Portland residents.

All of our homes are selling quickly, which tells us we're filling a need again for Portland residents. Putting restrictions on what can and can't be done with a particular property results in lower values for the property owners who choose to sell it, perhaps maybe even as part of their retirement. And again, these are Portland residents that you're putting restrictions on their property that they're choosing to sell. Adding additional restrictions, regulations, and delays only increases fees and other costs that we as builders ultimately pass along to buyers resulting in houses that are less affordable.  
[beeping]

So in summary, adding lengthy and unwarranted delays to the demo process impacts current property owners and future homebuyers, not just homebuilders like myself. And while I think the proposed changes to the demo policy are much more onerous to builders than they have been, they are a compromise that I can support and they clearly achieve the goal of providing neighbors with advance notice of an approaching demo, which was the genesis of the discussion in the first place. Thank you for your time.

**Hales:** Thank you. Thank you all. Good afternoon.

**Richard Kassebaum:** I'm Richard Kassebaum, I live in Oregon City. I'm a developer and builder about 17 years in the city of Portland. I want to make three points: one on availability of land and one on affordability and one on the voices of people who aren't here.

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Regarding land -- every time we tear down a home we usually put up two or three new ones in it. And what that's doing is saving land and sprawl from outside the city, saving down cutting our trees and forests and farmland. So, there's a lot of positive benefits to the City allowing demolitions to go on forth and allowing us to take one lot into three.

Affordability. Every restriction, every zoning code, every delay causes additional costs to our homes, whether it be through development or through the building process. And I realize and support a lot of regulations for the benefit -- whether it be health or safety or the benefit of the community -- just to be recognized, though, that some of these regulations do add costs and time, and those jack up the cost of the home ultimately to the homeowner.

We do a lot of both infill starter homes and custom homes. Our starter home customers will feel that pinch the worst when you start to add new regulations and new restrictions on what the home's going to do.

There are a lot of people here -- neighbors that we have torn down homes in their neighborhood, and they've been very pleased with the result. They're very glad that we tore that home down because it's usually a derelict home or a home that's not taken care of and it's an eyesore to the neighborhood. And when we come in, we try to match our project to the neighborhood feel so that 98% of the time we have a positive effect on the neighborhood. [beeping]

**Hales:** Thank you, thanks very much. Welcome.

**Dawn Kassebaum:** Good afternoon. My name is Dawn Kassebaum, and I had no idea that my husband and I would be testifying together, but here we are. I'm here to represent our company, Bluestone Homes. I'm a native Oregonian and I've lived in the Portland metro area most of my life. Bluestone employees -- my husband, of course -- he's also a native Oregonian -- and myself, the bookkeeper, and we recently added our adult daughter who has joined us to eventually take over our business. We've worked exclusively within the city of Portland building new homes for the past 18 years. On the average, we hire over 30 subcontractors for each project, as well as purchasing materials from local suppliers. We are a local company hiring local people and purchasing from local vendors.

I'm testifying on behalf of the HBA and the infill builder community. This week, I went through our records and determined that in the past 18 years we have been building infill homes, there have only been four times that we have demolished a home to build new ones. Each structure we demolished was an eyesore to the street and was considered dilapidated with the property value held in the land, not in the structure. I have submitted some photos of before and after for your review later.

In every one of our projects, no one contested or complained about the demolition. In fact, most neighbors -- as my husband mentioned -- were glad that the eyesore would be replaced and they verbally told us so. In every instance, our homes have created livability in the neighborhoods in which we built, provided increased taxes for the city, and one situation, proceeds of the sale were used by an elderly owner to pay for her care and health needs.

There are two criteria in and revisions that I consider a priority in the ordinance at hand. The extension of the delay period be limited to 60 days. Again, I believe a 60-day extension is a compromise for the property owners and is and not ideal for any of the stakeholders represented here. However, the 60-day extension is a huge improvement over the existing 120 days. The longer the property sits vacant -- as Mr. Remmers testified -- you have all kinds of negative behavior involved.

And then the other item that I think is the priority is the request for delay be accompanied by an appeal fee or an appeal waiver. I believe without a fee or a fee waiver,

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the frivolousness of the appeals will increase. Obviously, there are neighbors in the city who did not wish to see new infill development take place. If all it takes is a letter to put a 120-day delay to a process that is seen as negative, then this will be used as a tactic to create a burden to the property owner and the neighborhood with no actual expectation that the demolition will be prevented nor any plan to save the structure. Thank you for your time.

**Hales:** Thank you. Welcome.

**Tony Nickles:** Hi, my name is Tony Nickles, I'm on the board of the Laurelhurst Neighborhood Association. I'm not here on its behalf, but we struggled with the Markham house demolition and thought there are analogous things to understand why this code was so hard to fix.

This is a 40-year-old conversation, and I think we're putting the cart before the horse a little bit and it's affecting this law. The thing is that we have someone come buy the Markham house. He came us to and he said he was going to tear it down and build two houses. The neighborhood and McCulloch Construction worked very hard and saved the home.

And saving homes is nice, but sometimes you pay your neighbor to tear down their house. The thing is that half of this is about what goes up in place of that house. So, what she was just saying -- the presumption that the request for the extra delay is going to be made in bad faith comes from the fact that we have not yet addressed any of those issues. So, the assumption is that we're going to hide all of our concerns under the guise -- dress them up as philanthropy and request the delay. And that's true. That's what's happening because we haven't addressed those issues.

The thing is that in this case, the request for the extra delay is the threat that brought the owner to the table. So, if there's a disincentive, then the parties can work it out ahead of time. The thing is that this isn't fair. The extra delay isn't fair to the builders, to the neighbors, and what you need is a clear formal disincentive that allows the parties to work it out, or something ahead of time like, you know -- I mean in an imaginary world, if you had limited the amount you could make in rebuilding your home, you wouldn't tear it down in the first place. The thing is that you're putting this burden on neighborhood associations and we haven't done the job yet of creating a code that -- it's not enough about net loss anymore.

We have an interest in our neighbors' homes and that -- this says that the only way I can avoid my neighbor doing something that affects my property value is to buy his house. [laughter] So, the idea of, you know -- [beeping] -- and no one is going to be able to do this except for the elite. So, until we get disincentives into the code to limit the number of demolitions that we have in general, the idea that it's in bad faith is -- it doesn't help anyone.

In the 83 report, it said we would love to have everybody go through a hearings thing. If you had a threshold of -- that the builder had to have a hearing and pay for it unless like an annexation, everybody signed off on it -- I don't have the answers -- but this code is the opposite of and it's being pressured and twisted because of it.

So I think we need to hold off, have some interim process, and have the City take care of that rather than force us to be the bad guy. And then you can learn from the hearings. You can learn what the issues are and then address this code. Because this is -- this has been so tortured that it's just bad, it's backwards.

**Hales:** Thank you. The other approach, of course, is this for now and those other issues that I mentioned later.

**Nickles:** I understand. But it's just that I don't think we've addressed that conversation and that's what's causing this assumption that -- the presumption -- if the presumption was on

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the builder, then that at least motivates them to negotiate with the neighbors. I mean, it's the neighboring interest in their home, which is a legally a really hard thing to -- I mean, we have the state code saying we can't designate homes. The Oregon idea that you have an interest in my house is very hard to take, and we haven't yet come up -- we haven't faced that yet. All I'm saying that's what's causing the problem in fixing this.

**Hales:** I hear you. Thank you very much. Thank you all. You've got slides? OK, Karla will help you with that. Go ahead, please.

**Jim Heuer:** My name is Jim Heuer and I am speaking today to introduce testimony by the United Neighborhoods for Reform. You're familiar with the organization -- we're a grassroots group dedicated to stemming the epidemic of demolitions.

First, Mayor Hales and Commissioners, we would like to thank you all for responding to our citizen cry for help that emerged during the summer. It's been a long road and a great deal of work by yourselves, by DRAC, BDS, and other city staff, not to mention hours of our time has gone into this. We now have a recommendation from the DRAC committee which UNR has decided to support, albeit with serious reservations.

The current proposal is an example of the saying "politics is the art of the possible." There's a lot in the proposed ordinance that we not only like but urgently need. There are other aspects that quite frankly don't achieve our goals, and you have heard already about some of those and you'll probably hear some more.

We ultimately supported this recommendation on the strength of three considerations. First is the council's commitment on December 17th to schedule a review of the new provisions in 18 months. We intend to hold to you to that commitment and to insist that such review be conducted by a body with vastly better balance than the Development Review Advisory Committee -- which, having membership of 13 developers out of 17, is not the best venue for making broad policy affecting all Portland residents.

Secondly, we intend to monitor the application of the new definitions to make sure that they achieve their intended goals.

And thirdly, we intend to seek a better way to save more viable, affordable houses that are slated for demolition. Simple delays -- be they 120 days or 60 days -- have been a feeble solution. Demolitions of up to 370 affordable houses a year valued at \$100 million dwarfs the City's efforts at spending \$20 million to support affordable housing. Can we really achieve affordable housing through demolition?

But the work is not done. Lead paint and asbestos dust is still being scattered from demolition sites, and hearing the discussion today, there's still some misunderstanding about where we stand on those regulations. Deconstruction is still all too rarely employed, and the next speakers will have much to say about these subjects.

**Hales:** Thanks very much. Ms. Chung, welcome.

**Wendy Chung:** Mr. Hales, Commissioners, good afternoon. I'm Wendy Chung, I'm from the NWDA. I know, Mayor Hales, you asked us not to speak about anything but the amendment. You should know there have been 40 demolitions -- somebody has already said that, I think -- since the last time I was here to speak to you about this. Obviously, like you said, we have this urgent problem that has to be addressed immediately.

But the Laurelhurst fellow who testified before us brought up a good point, which is the reason we all are here to begin with, the reason we started looking at the demo delay rules because of the issue of demolition generally. And I just wanted to talk about a couple of things that you mentioned in your interview with OPB that I think inform your decisions -- not necessarily about related to this ordinance but also related to the other things you were talking about.

You rejected two fallacies during that interview, first that demolitions provide affordable houses; and second, that preservation undermines density. I have some

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specific ideas how you can reduce demolitions while promoting density, affordable housing, and historic preservation. Obviously, we need to reduce incentives for demolition but the main thing I think we need to do there is to fix the base zones and reconcile them with the existing built environment design and historic overlays. For example, RH zoning for a historic single-family home invites demolition. So, it's more than just setbacks. It's more than just height. But as you pointed out in your interview, we need to tighten the envelope.

This reduces the financial incentive to demolish a smaller older home to build something out of scale. Tear-downs are currently easier than building empty lots or renovation. I do want to bring up somebody you mentioned in your OPB interview, which is Mayor Nutter of Philadelphia. He recently did make some improvements to the demolition rules. They prescribed specific demolition guidelines, training and site inspections, and the impetus was the collapse of a building under demolition that killed six people. I know we don't have money, I know we don't have time, I know we don't have staff -- but six people died, and the contractor who did the demolition hung himself. This is a few blocks there my in-laws' house.

The point is that Portland's code was singled out during the lead up to this as a specifically good example of an ineffective, vague rule. You will see that's Portland Code 24.55.100 that's cited in this article. So, we can't wait a year, Mayor Hales. We can't wait even 90 days. We need to do something now.

Separately, we need to reduce incentives for demolition. We need to increase incentives for preservation. Some specific ideas are to combine historic preservation and affordable housing incentives. BPS issued a 2007 report on credits and bonuses that is really helpful. It's on your website, Commissioner Fritz. And combining these could allow us to motivate developers to preserve rather than demolish without costing us anything. It won't cost the City anything.

We should expand the historic preservation incentives to all buildings more than 50 to 75 years old and many of those incentives include additional density for additional single-family dwellings and multidwelling zones.

Another idea is to reduce SDC fees because currently for development that doesn't require demolition because currently it's actually cheaper to again demolish than to rebuild on an empty lot.

So, these are some of the solutions that other cities employ. I point these out because I'm asking you to please not stop at the changes that are proposed today. Fix the code and look creatively at bonuses and credits to provide affordable housing and density. And these aren't new ideas, because other cities are doing this today -- and we deserve it, too. Thank you.

**Hales:** Thank you. Thank you all. Good afternoon.

**Sara Long:** Hello, Commissioners, it's an honor to be able to speak to you today. My name is Sara Long and I live in Eliot, as you can see on this map here. And I will at least until the wealthy developer who owns my 126-year-old home demolishes it, along with the 125-year-old home and cuts down every last enormous tree. It will happen with barely a ripple of notice because this story is extremely common and happens an average of once a day in our city.

As in nearly all cases involving demolition, there is plenty of room to build additional housing almost twice as much as the developer has planned on my home's lot with no loss of existing homes nor loss of even a single tree. As in nearly all cases involving demolition, my home was built using old growth Oregon timber from trees that were hundreds of years old and had 15-foot wide trunks. Those resources are long gone and today, they are being tossed in the landfills.

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I would like to request a deconstruction mandate or significant incentives from you, my City Council. If I must lose my home and Portland must lose this priceless resource, it shouldn't be lost forever to a landfill. And I have here graphics showing -- this is an overview of the Eliot neighborhood. Everywhere you see what looks like an empty asphalt lot -- that is either a long since demolished building or empty unused surface parking. Eliot is one of the lowest density neighborhoods not because we are a bunch of hoity toities -- we're actually pretty poor -- but nobody is building the density. Please build where we can in my neighborhood. Thank you.

**Hales:** Thank you. Thanks very much. Thank you all. Welcome.

**Barbara Strunk:** Thank you. My name is Barbara Strunk. I am a member of the steering committee of United Neighborhoods for Reform. I live in Beaumont-Wilshire.

Deconstruction is unfinished business that we are very glad the city council is taking up. This is not a new issue for us; deconstruction has been part of the UNR policy since last summer when over 2500 people signed our petition calling for demolition permitting reform. In addition, over 40 neighborhoods associations have signed our UNR resolution that repeats the call for incentives for deconstruction.

New ways of thinking about this issue are required. We propose a mandate that deconstruction is the only acceptable approach to removing all or part of a single-family residence. If this is not feasible within the City's statutory powers, then it is time to apply the City's taxing authority to make deconstruction the clearly more cost-effective choice.

The 2010 Oregon DEQ study on preventing waste from the residential construction sector states that 158 homes deconstructed rather than demolished in a year saves as much carbon emissions as is sequestered by Forest Park's 5100 acres a year. The environmental arguments for deconstruction are persuasive to us in the neighborhoods. We prefer that we save our viable, affordable single family residence and avoid their demolition altogether, but with nearly 400 demolitions a year, we are a long way from stemming this epidemic. When a house is demolished, we expect that the greenest city will require deconstruction as standard practice.

**Hales:** Thank you. Thanks very much. Welcome.

**Barbara Kerr:** Good afternoon, my name is Barbara Kerr, and I am concerned about our affordable housing crisis, specifically that when houses are demolished the replacement cannot be as affordable. For the same reasons that the greenest building is the one that's already built, the most affordable home is the one already built. Plus, when single family homes are demolished, we can lose homeownership and therefore stability in our communities. We lose stability for our families. For current homeowners, families starting out and equity that's handed down for future generations.

We must dis-incentivize demolishing our single family homes to curb and counter the market forces that destroy our affordable housing stock. But I am also concerned that our efforts to increase our supply are resulting in a demolition of our truly affordable homes. One step forward, three steps back. The needs for affordable housing cannot be met by policies and projects that encourage demolishing our existing homes. Without our fixer-uppers, the housing will only be affordable for those who are not disadvantaged or who moved here from out of state. Without the truly affordable housing, the homes that are already built, people are being displaced to places that will continue the problem it was intended to solve.

Pending legislation in Salem includes increasing financing for affordable housing, directing cities and counties to ensure an adequate supply of affordable housing, and removing the ban on inclusionary zoning thereby allowing municipalities to require developers to reserve a certain percentage of their units for low or moderate families. All are for a good concepts and are for a good and necessary cause. But if they pass without

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conditions that protect our existing homes from demolition, the consequences will be the opposite of their intentions. If the City does not work with the state to keep those incentives for creating affordable housing from being applied where existing housing stock would be destroyed, they will be but a pretense that we are dealing with the affordability crisis.

The Housing Bureau's north-northeast neighborhood strategy talks about helping people repair and maintain their homes. This needs to be the focus for increasing affordability. They are talking about locating new affordable housing in empty lots. That should be the rule. They talk about helping people add value to their property so they can afford to stay in their homes -- for example, by adding accessory dwelling units. We must be sure this is not just talk, that it becomes citywide and we are using our influence to build it into state laws as well.

We must save our existing affordable housing from both private and public efforts. If we really are looking out for the disadvantaged lower income citizens and our young families, we must make sure that we are looking forward to see who will benefit -- the neighborhood who no longer has a neighborhood or the opportunity to own their own home, or the developer who is encouraged to make their money under the guise and sacrifice for the common good. We know that the City intends to do the right thing but we are not sure that we are not committing the urban renewal mistake of the 21st century.

**Hales:** Thank you. Thanks very much. Welcome.

**Janet Baker:** Hi. My name is Janet Baker and I live in the Beaumont neighborhood. I am also a member of the steering committee. I want to again talk about affordability for first-time home buyers and also middle income buyers in Portland.

This group of buyers is finding it increasingly difficult if not impossible to find an affordable home within the city. In several DRAC meetings and neighborhood meetings I've attended, developers rationalize the tear-down trend in Portland -- particularly in the kind of neighborhood I live in -- as being driven by a lack of executive housing, saying we need more executive housing to succeed in economic development.

First of all, speaking as someone who's had to read a lot of economic development literature in my professional life, I can tell you that lack of executive housing is rarely a limited factor in economic development. Usually the limitations are lack of industrial land, lack of infrastructure, lack of good water quality -- and certainly, land has been an issue in Portland and probably nothing could be as serious as what's going on with Port of Portland right now in limiting potential for future economic development.

If there is a housing factor in the company's decision to locate in a particular city or region, the issue is usually a concern about affordability for employees, not executive housing. But let's say you do believe we have lack of executive housing. I want to share with you some year-end housing stats.

In the real estate industry, you probably know inventory of houses is often expressed as inventory in months. It's defined as the active residential listing at the end of the month divided by the number of closed sales for that month. Five and a half months is usually called a balance point. So, anything under that and it's a seller's market. And it's been a seller's market in Portland for the last three years at least.

Let's look at Multnomah County and look at the inventory in two price brackets -- and you have a chart attached to your first page there. Under the \$350,000 price bracket where first-time home buyers would be, there's 1.7 months of inventory in December of 2014. But in the \$600,000 to \$1.1 million range, the bracket in which developers are selling their executive homes, the inventory is 2.9 months. You can see that this trend has been that same -- I picked one point in time to simplify it, but the trend is the same for the whole chart.

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The realtor who provided me this data said what the data clearly tell us is the inventory is low in all price ranges. When the builders use this lack of executive housing as their justification for tear-downs, it's ridiculous. If you want to use this argument, she said, you would need to tear down expensive houses so you could build cheaper houses because that's where we have a bigger shortfall.

This lack of affordable homes is going to continue if we continue to demolish these homes. Only this morning, the Portland Chronicle reported another 40 demolition permits issued between the time of our December 17th hearing and today, and that doesn't even count virtual demolitions. It's an urgent problem, one we can't sit on for another day or another hearing. The next speaker who will be speaking to us from or group has some hands-on experience that I don't have. I am all about numbers and she can talk about real first-time home buyers.

**Hales:** Thank you for the numbers. Thank you. Thanks to all three. Good afternoon.

**Alyssa Isenstein Krueger:** Good afternoon. My name is Alyssa Isenstein Krueger, and I am a real estate broker with Living Room Realty. The majority of my clients are first-time home buyers and this past year -- and even more in the past few months -- have been the most difficult to be a buyer in in all of the years they've been working in real estate. Given the market trend of a lack of supply and huge demand for houses, the market is not likely to get much better for would-be home buyers for quite some time.

My first-time home buyers have been preapproved by lenders and are looking for Portland's once-plentiful humble little starter homes, willing to pay up to \$350,000 for a small home with space for children, a garden, a pet. They want to buy Portland's older homes with flexible spaces like unfinished basements or attics that can be converted to living spaces as their needs change and their families grow, and they are not deterred by a home that needs elbow grease. Most importantly, they want to live in the communities where they have connections, where the neighborhoods have character and amenities they can walk to like stores, schools, and transit lines. The problem? So are developers.

Developers bring cash to waive off financing contingencies, they don't have the homes inspected, and can close on a house in less than five business days. More often than not, a developer is purchasing a home with the intent to demolish or significantly alter the home and then build a house that sells forever over \$650,000. Every time this happens, we lose another home from our city's stock of affordable houses. That home will never again be an entry way into home ownership for hard-working families and individuals who see the benefits of homeownership and want to take part. In its place is a home that for most of the time is not in character with the surrounding homes is and unaffordable to 99% of first-time home buyers.

Every time this happens, my first-time home buyers are discouraged, angry, and heartbroken. Not only did they lose out on yet another house to a cash developer, but that house that they had pictured themselves living in will be crunched up and sent to a landfill. Additionally, many of the homes that have been demolished over the past couple of years were never put on the open market. They were acquired by developers who send letters to homeowners offering to purchase their home for quick cash. This tends to go to elderly people, and many of these sellers are vulnerable and they do not understand that they may be receiving less than market value by selling their home in this manner, and that the buyer of their home tends to demolish it and replace with it a much more expensive home.

In addition to providing notice to surrounding homes and the neighborhood associations, those seeking demolition permits should be required to obtain a notarized signature of the home seller stating that they understand that their home will be demolished. No signature from the seller means no permit for demolition.

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I am also partner broker with the Portland Housing Center and this past Saturday, I presented the shopping for your home section at the Home Buying 101 class. There were 42 people in the class, and when I asked how many of the class participants were planning on purchasing a home under \$250,000, 36 out of the 42 raised their hands. This would have been a realistic goal for all of these home buyers only a couple years ago, but with the dramatic rise in property values and the loss of humble homes to demolition, it's obviously not going to be reality for most of these people.

As a city who is dedicated to maintaining diversity in all forms and in all levels, we need to consider the impact that demolition of habitable and affordable homes has on our greater community and work on solutions to keep these homes off the jaws of the backhoe and available for future generations of families.

**Fish:** Can I ask you a quick question? In the one thing you mentioned about people sending letters to potentially vulnerable sellers, you know, seeing if they are willing to sell their house -- does state law currently regulate any part of that? Are there any requirements that --

**Isenstein Krueger:** As far as I know, no.

**Fish:** So no requirement that you -- the offer contains, say, language that says you are encouraged to seek the advice of a real estate professional?

**Isenstein Krueger:** Nope.

**Fish:** Or you might want to have your house appraised or talk to someone?

**Isenstein Krueger:** No.

**Fish:** And how are you able to track those transactions? We know they're going on, but --

**Isenstein Krueger:** We know they are going on. Again, hearsay, anecdotal. But I'm on a lot of Facebook groups about demolishing Portland and there's anecdotal stuff. I also know that from talking to folks whose neighbors -- suddenly, the house is being demolished and the little old lady who sold it sold to it thought it was a nice young couple who turned out to be a developer.

**Hales:** Thank you. Welcome.

**Jim Gorter:** Thank you. My name is Jim Gorter, I live in the South Burlingame area, and I am speaking on behalf of United Neighborhoods for Reform. Thank you, Mayor Hales, for your commitment to working on the infill standards and development process.

As requested by 40 neighborhood associations, we call for the creation of a task force to make the comprehensive plan policies for 5.33 and 4.13 for the production of affordable housing and neighborhood character a reality and to address community concerns in these areas. We call for the creation of this task force by March 1st of this year. I'm going to make a couple other comments which are going to be mine -- they haven't been vetted by United Neighborhoods, so they are going to be mine.

First, when a home is scheduled for demolition, I think the developer and the owner should be required to keep it in habitable condition if at all possible, maintain utilities, keep the roof on, keep out transients, not remove woodwork, not remove furnace and so forth.

Second, we're talking about notification of neighborhoods and neighbors. I think the notification of neighbors should include a City contact number for the concerns and complaints about dust and hazardous materials and other things. And I think that a sign should be posted at all demolition and construction sites with a common City phone number where people can call, express their concerns, and ask questions. We have it now for erosion concerns. Let's put a common number for everything altogether and have that number manned by a real person who can direct it to the appropriate person.

**Fish:** Well, you just made Commissioner Fritz's day. She is a champion for a 311 system that would be a common number for many things.

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**Gorter:** Good. On the demolition things -- security fences need to be provided around property when they are in the vulnerable state. There was one in my neighborhood on my block which sat empty or the lot was a hole in the ground for several weeks until the developer moved to the next stage of construction. There needs to be post-demolition inspection to make sure that all codes and -- if appropriate -- land restoration has occurred.

**Fish:** Mayor, can I just pose a question to Paul for later when you come back? Paul, in my neighborhood there's a big multi-family development going up which has a fence around it, and at night there's a security guard. I believe that was something that we did --

**Saltzman:** Fire.

**Fish:** The fire -- that was a life safety issue, so now there's a security person there at night. Yet when some of these demolitions are going on, there's nothing around the perimeter of the house that's being demolished or being rebuilt. And I'm just curious about what the thinking is in terms of the two standards. One, we have a very tight standard in terms of perimeter and security. The other is much looser and there might be a logic to it but at some point I would like to know more about that.

**Hales:** Mr. Gorter, thank you. Welcome.

**Margaret Davis:** Hello, I am Margaret Davis with United Neighborhoods for Reform and I am delighted to be here.

Creativity and quality. These are attributes Portland has embraced in the past, and we'd like to see more of them in the home construction occurring now in our city. At United Neighborhoods for Reform, the first choice for Portland housing should be protecting the affordable green home that's already there. With additions, accessory dwelling units, and renovations, much can be done to modernize and alter a house for future generations. These activities provide the added bonus of employing more local people than new construction does. If a house has to go, deconstruction should be mandatory.

And then, there's the matter of new construction. What goes up on the residential land that is arguably Portland's finest resource? This new development should create an improvement for everyone. To do this, it will contribute open space as its neighboring properties do, respecting the size of contextual setbacks, footprint, mass, and height of existing nearby homes. Determining the specific allowances for these items and the context to be considered will be the work of the task force as proposed in UNR's resolution.

By the way, City Code already regulates setbacks, footprint, and height, but no one thought to build to the maximums until now, which is a direct result of considering a neighborhood more of a profit center than simply a place to live. In better regulating setbacks, footprint, mass, and height of new construction, compatibility with established housing is better assured as is access to solar power for energy and vegetable gardens, along with space for mature trees. This is how Portland can spark more creativity and quality.

Building smaller is more environmental. A larger part of the construction budget can go toward more durable materials, and home layouts can make smarter use of space. Many Portland residents will take creativity and quality as why we chose to live here.

Finally, we request the task force look at current zoning and lot-splitting policies to protect existing housing. Some 28,000 homes citywide sit on plots slated for greater density. Let's appreciate the breathing room and the opportunities for creativity and quality that they provide. With new guidelines sensitive to established neighborhood standards, we believe it will once again be possible to be both pro-development and pro-Portland. Thank you.

**Hales:** Thank you. Thank you all. Terry, I think you're on first.

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**Terry Parker:** Thank you, Mayor Hales. My name is Terry Parker. I'm also on the UNR steering committee and, yes, this testimony has been vetted by UNR.

Today, it is my responsibility to present and clarify UNR's position on the equitable makeup and establishment of a redevelopment development standards task force/work group that is recommended to be comprised of 50% neighborhood organization representatives and 50% City staff and other concerned citizens as per UNR resolution.

Neighborhood representatives are the people who are active with and actually live in the neighborhoods, where the next house to be demolished might be the one next door, down the block, or around the corner. These are the people who have a view of the street from their front windows that could become impaired by a replacement house that is not set back from the sidewalk or could have a towering out of scale house constructed on the property that is next to theirs that would cast a shadow and block the sunlight.

To avoid a conflict of interest, perceived or real, we ask that neighborhood representatives are not professionally connected with or earn their living in the land use planning, development, architecture, or real estate fields. We welcome people from these fields to be on the task force, just not filling the neighborhood representative seats at the table.

Likewise, in the interest of adding more diversity, voices and opportunities for qualified neighborhood people who haven't participated in but aspire to be part of the official City process, we ask that the preference be given to neighborhood representative who have not recently served or are currently serving on another BDS, BES, BPS, PBOT task force, advisory committee, work group, or comp plan policy expert group. Again, this avoids a possible conflict of interest. We also ask that UNR has representatives at the table. Meetings need to be scheduled at times when working people can attend and located in various neighborhoods.

Finally, as opposed to appointing a chairperson we suggest the first order of official business for the task force should be to elect a chairperson and vice chairperson. In closing, UNR wants to see an equitable and well-publicized application process followed by a task force with an open and transparent process that has a meaningful deadline for results. Thank you.

**Hales:** Thank you. Good afternoon.

**Sharon Genasci:** Hi. My name is Sharon Genasci. I'm chair of the NWDA air quality committee, and I'm testifying on behalf of UNR, the United Neighborhoods for Reform, about the jurisdiction of asbestos and lead regulations in demolitions.

Based on our research, we believe Portland has jurisdictional authority to create hazmat policies for house demolition sites, including inspecting and monitoring for asbestos and lead. A survey by the National Association of Clean Air Agencies, NAAA, wrote in December 4, 2014, the Clean Air Act explicitly allows state and local air pollution control agencies to adopt projects more stringent than those of the federal government. Specifically, section 12.16 states that air quality agencies are not precluded from adopting for enforcing any standards, limitations, or requirements as long as they are at least as stringent as those required under the federal program.

Over the past three years, the City has issued 752 demolition permits. The actual number of demolitions is much higher. Unregulated demolitions occur throughout Portland neighborhoods, and neighbors living near the demolitions are increasingly alarmed at asbestos and lead emissions. The question is, who is looking after public health from unregulated demolitions in Portland? Oregon's Lane County, other Oregon cities and Southwest Clean Air Agency in Washington have adopted rules for asbestos-containing materials and lead-based paint in demolitions. I have here a list of Lane County regulations

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and asbestos demolition guidance from Southwest Clean Air Agency in Washington. I passed them out to you.

If Lane County, the Southwest Clean Air Agency and other cities can produce rules governing toxic demolition materials, then we in Portland can do the same. We are asking the City to accept responsibility for creating regulations and enforcement for asbestos and lead emissions in demolitions. Developers currently profiting from the demolitions should pay a fee for accredited inspectors to ensure that all regulations are followed. Public health costs should be a consideration in setting the fees.

I attended a memorial in London two years ago for a dear friend of mine, a fine architect known for his work on the Ashmolean Museum at Oxford. He died of mesothelioma from exposure to asbestos. He was exposed during the interior demolition of a house he was remodeling for himself about 35 years ago. He was at the top of his career, took excellent care of himself, and was well-loved by friends. If demolitions are properly monitored and the air toxics abated, all of us -- developers, workers and neighbors -- will benefit. Thank you.

**Hales:** Thanks, Sharon. Thank you very much. Welcome.

**Judy Parsons:** Hi. Good afternoon. My name is Judy Parsons and I'm a member of the UNR steering committee.

Mayor, during the December 17th hearing, you asked about which levers would be affected in the demolition process. Due to the serious public health, safety, and environment concerns at these demolition sites in our neighborhoods, we propose one answer is creating the hazmat lever to protect Portland residents. One of our policy proposals is for the City to require hazmat surveys and abatement plans that are prepared by certified abatement contractors to be submitted with the City's residential demolition application.

Based on research, we are shocked and alarmed that Portland does not already require these documents. We have confirmed that in many other Oregon cities, such as Medford, Tualatin, and Lake Oswego, those cities do require such documentation. For instance, in Lake Oswego, we heard earlier where it was explained as a check box on the application. In the material that's passed out to you, you will see that it states, Lake Oswego requires submitting a certificate of compliance for asbestos and lead-based paint removal at their demolition sites in that city. Why is this not being required in Portland?

As you see on Portland's demolition application -- which is included in that packet, too -- the newly-added DRAC-approved statement of fact which was recently inserted that Commissioner Fritz referred to as a change in the document to address our concerns -- you see the language highlighted there. But due to existing gaps in state hazmat regulations relating to residential demolitions, we think this is a meaningless statement block. Therefore, since BDS -- and we just heard Commissioner Fritz earlier, you said BDS does not have the resources -- we ask City Council to designate the appropriate department that does have the authority to create hazmat control policies and regulations and to implement, for instance, a specific proposal.

We believe Portland does have the authority to do this, and UNR members want to be stakeholders in the process. We believe this is a reasonable request since we find this being done in other Oregon cities and across the country. And I'll point out this is an item that's on our UNR resolution that 41 neighborhoods have approved in principle which indicates it's a concern of many citizens throughout the city. We [indistinguishable] hazmat control policies are put in place as soon as possible in Portland for these demolition sites that are in our neighborhoods. Thank you.

**Hales:** Thank you. Thank you all.

**Fish:** Judy, just one thing. I'm looking at this -- you gave us this packets, right?

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**Parsons:** Yep.

**Fish:** For example, in Lane County -- which covers Eugene -- there's apparently a county air protection agency in addition to the state of Oregon that regulates.

**Parsons:** Yes.

**Fish:** So, there's a county --

**Genasci:** It's the Lane Regional Air Authority, which is the sort of the counterpart to the DEQ here in the state but it's a local state regulatory agency. And you were asking that question and I really appreciated that, Commissioner Fish.

**Fish:** That's because I just don't know.

**Genasci:** About whether or not -- you said, is the state law sufficient to take care of this problem? And the simple answer to that is no. The DEQ is contracted by the EPA to uphold the Clean Air Act, which is federal law. But in this state, our DEQ isn't doing that job properly. That's why we are here.

**Fish:** Does this -- this is the Lane Regional Air Protection Agency. Is there an equivalent here in Metro or the County?

**Genasci:** No. It's a sort of unique arrangement down there.

**Fish:** They created something -- their created their own regulatory framework?

**Genasci:** I have to say, I talked to the director this morning and they're not really very much on top of doing enforcement. They've got the regulations there, but they are not really -- that's why it's so important for us not to do two things. You have to do the regulations, but also the enforcement. And we need the fees to pay for that from the developers.

**Fish:** Is the Lane County system also complaint-based?

**Genasci:** I think so. But we're really -- the DEQ is complaint-based. They call it complaint-based but what happens -- we have a complaint line on [www.portlandair.org](http://www.portlandair.org). I recently had the experience of a complaint being registered for a business in Northwest Portland that's not permitted but putting out a lot of emissions. And the complaint person at DEQ called me and he said, well, I have gone to talk to the manager of that company and he says that the emissions are only steam. Well, I mean, this is just laughable to us. I mean, 15 years ago we were saying, what is in the steam is what we want to know. Let's monitor it. But they can't do that.

**Fish:** I don't want to take up everyone else's time, but I also want to note in Lane County, the survey report that the developers require to fill out -- the survey report could say there is no asbestos -- has to be remain on site during the demolition. So, there has to be a survey and it has to remain on site for public inspection.

**Genasci:** Right. And it has to be enforced.

**Fish:** Thank you.

**Genasci:** Thank you.

**Hales:** Thank you all.

**Parsons:** May I add to that comment? It is also an OSHA requirement that an asbestos survey is generated for workplace. So, there should be an asbestos survey. Therefore -- and we heard developers earlier testify that they are responsible and they are mitigating based the on surveys. Great. Require submission of those documents with the application in the City like other cities do, please.

**Hales:** Thank you. Thanks very much. Good afternoon.

**John Sandie:** Good afternoon. My name is John Sandie, and I'm a Beaumont-Wilshire resident.

Members of City Council, I am here to reemphasize and expand on my December 17th testimony regarding the urgent and immediate need to implement best practices and reasonable, responsible house demolition protocols. When someone is exposed to

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asbestos or lead-contaminated dust, they can't be taken outside to fresh air to recover. They can't be taken down to the emergency room and given a shot of adrenalin to mitigate the problems. They are potentially sentenced to serious, irreversible health problems whose symptoms may not appear for years.

In my earlier testimony, I highlighted demolition protocol steps that have been proven to lower the risk of public exposure to dangerous toxins in the dust generated during house demolitions, such steps as proper wetting of the structure and debris pile; covering the trucks during transit; daily cleanup of the streets and walkways; and performing partial deconstruction of building materials that show the presence of lead. My research also identified other easy, proactive steps that have been used to reduce the risk to general public. Simply providing tacky mats to the neighbors next door to keep the outside dust from being tracked in; performing thorough cleaning of nearby residences using the special hepa filter vacuums.

Let me remind you, there are scientific studies that demonstrate that lead dust can travel up to 300 feet from a demolition site. And computer models developed by Wayne State University in Detroit that puts the potential impact at even greater distances. Think of how many patios, play areas, and vegetable gardens may be within reach of this potentially dangerous plume.

Both the EPA and the CDC have stated there is no -- emphasis, no -- safe level of exposure to either lead or asbestos. Younger children are especially susceptible to a life of developmental problems, nervous system and kidney damage, learning disabilities, decreased muscle and bone growth. For the City of Portland not to require and enforce these simple steps that have proven so effective in other communities is, in my mind, morally indefensible.

So, to restate my request to Council, the City of Portland should immediately require and verify use of these proven protocols for effective and responsible single-family housing demolitions. And I have one other thing that Commissioner Nick Fish segued into. Since you have been up close and personal with the demolition, I acquired a free kit from the Portland Housing Bureau for lead dust and I'm going to give it to you. Maybe you can sleep a little sounder.

**Hales:** Here, I'll take it for you. Thank you.

**Sandie:** Thank you very much.

**Fish:** Thank you. Actually, my concern is that my son sleeps a little sounder. But thank you, I appreciate it.

**Al Ellis:** Hi, my name is Al Ellis, United Neighborhoods for Reform.

While UNR is in total agreement with Mayor Hales in his emphasis on front-end reform and addressing the issue of construction of big homes that don't fit the existing fabric of the neighborhood, and the tearing down of viable homes that are affordable, etc., we're still of course engaged in the demolition area. And I should say that we commend the Bureau of Development Services and the DRAC demolition subcommittee for extending the opportunity for us to come in and work out a consensus, a compromise. And I think that's the best way to conduct business in the city.

In terms of hazmat policy, most of what I was going to say has been said, but I'll just say that the current policy just seems toothless for requiring an initial of the application applicants acknowledging regulations -- and that's it. You know, you can't expect neighbors to enforce the hazardous materials regulations. The missing ingredients here are -- as you've heard -- are a mandatory inspection prior to the onset of residential demolitions for the purpose of verifying proper abatement and disposal of hazmat materials and of course the funding to implement it.

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As you've heard, there are lots of different cities around Oregon that provide good examples of how this is being done in one form or another, and we can learn from these models and we've submitted the some information for you, as Commissioner Fish has referred to.

The last thing is that there are inspections for all kinds of different things when you are purchasing a house: Plumbing, electrical, roofing, dry rot -- you name it -- and the fees are required up front but there's dividends down the road. And the same thing applies for hazmat inspection but the dividends down road are not just for the homeowners and their families, it's for the whole neighborhood, the whole environment. Also, while faulty plumbing and electrical wiring may result in flooding or fire, asbestos and lead released in the environment is with us for the long run. And as John has pointed out, it most severely affects the most vulnerable among us -- the children, the sick, the elderly, etc. So, we think that hazmat issue really needs to be addressed. And I'm glad that you brought that up right from the get go.

UNR is providing the council with documentation, as I said, and we hope to work collaboratively with you in the formulation and implementation of a viable policy for Portland in the same way we were able to work with BDS and the DRAC subcommittee. Thank you.

**Hales:** Thank you.

**Claire Coleman Evans:** Hi, my name is Claire Coleman Evans and I'm a member of the UNR steering committee.

On December 15th, United Neighborhoods for Reform sent a letter to members of City Council requesting action of hazardous materials at demolition sites. We restate our request for dedicating City personnel to monitor the activities and serve as liaisons with state agencies to report any hazmat release problems directly to partnering agencies responsible for enforcement and citing violations and provide a user-friendly public online access for this purpose.

The health and safety of the neighborhoods and the health of the environment are woefully neglected around residential demolitions. We have observed dust clouds that blow around the neighborhoods. Demolition debris is often hauled away in trucks with uncovered beds. No complaint numbers are posted on the demolition sites. DEQ has no dedicated asbestos investigators in the local regional asbestos office. The City does not currently require personnel to inspect nor monitor the actual bulldozing of activities at residential demolition sites.

Since residential demolitions have increased throughout the city, so too have the residents' anxieties and complaints and the release of hazardous materials. We have heard such complaints expressed in many well-attended neighborhood association meetings. These complaints express concern for public health and safety in the environment. The current complaint-driven system in Portland is not reasonable nor effective, and we ask the City to create a more proactive approach.

Who does a resident call when they have these concerns? For two years, there has not been a dedicated inspector in the DEQ Northwest Regional Asbestos office. BDS suggests calling OSHA. By the time they show up, the demolition has ended. Plus, OSHA is primarily charged with working with workers protection and safety, not around the surrounding neighbors, houses, yards, or children. By the time any response may occur, the demolition process is complete and little evidence of dangerous practices remain.

Commissioner Fritz, in an Oregonian news report dated December 11th, 2014, you were quoted as saying it isn't the neighborhoods' job to monitor developers' compliance with environmental regulations. Should there be an expectation that neighbors in all parts of the city should be vigilant to make sure the development goes smoothly? Shockingly,

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the reality is neighbors do have to be the watchdog since the City is not. We believe the City has the authority to correct the existing problem. Since BDS states they lack the authority and resources to further address this occurrence, we request and ask that the mayor and the city council designate an appropriate department responsible for protecting public health, safety, and the environment to create policies and regulations to protect Portland residents from lead, asbestos, and other contaminants during the demolition and development process. Thank you so much.

**Hales:** Thank you. Thank you all. Welcome.

**Steve Elder:** To the City Council, I'm Steve Elder. I'm with United Neighborhoods for Reform and I'm here to address the issue of "shouldn't a person be able to do what he want with his property?" The obvious answer is yes, but there's more to it.

Market forces mandate willingness by buyer and seller. Seeking the best deal is not just a right, it is an economic imperative. But don't those who suffer collateral damage, the 99% whose property is adversely impacted by demolition and replacement, have rights, too? We submit that they do. People shopping for houses or for homes want to be in nice neighborhoods with nice houses, nice trees, and nice people. Some want and can afford to live in big new houses. Many others are shut out. It took over 100 years to weave the fabric of our attractive neighborhoods. We don't want it torn apart and shredded.

Developers seize opportunities. Their offer might be a little low, but they offer quick closings and don't require repairs -- hassle-free exit for the seller. Developers clear lots as quickly and cheaply as possible, and erect the largest, most easily sellable structure for the highest price they can get. Little thought is given to the neighbors in whose backyard the destruction and replacement is perpetrated. When the housing bubble breaks, the demolished livable houses will still be gone and their looming light-blocking, privacy-invading replacements will remain.

As creators of community value, we assert our right to avoid the denigration of our neighborhoods. We seek to impose high cost for removal of sound structures, and to provide guidelines for the size and location of their replacements. We claim it is our right and our duty to ourselves and future generations to do all we can to do all we can to maintain the integrity of our community.

**Hales:** Thank you.

**Rod Merrick:** Very poetic. Mayor Hales, City Council, my name is Rod Merrick, architect and neighborhood association land use chair. And first of all, I'd like to thank Commissioner Fritz and especially Mayor Hales for engaging the issue of residential demolitions affecting citizens across the city. I also want to thank the many neighborhood and preservation groups that have pressed for a solution, especially in United Neighborhoods for Reform. But this measure that's before you -- while it is a half-step forward, is two steps back.

The issues associated with demolition regulation are many, from preservation of viable, affordable housing, protection of public health from demolition process, preservation of cultural and historic resources that are important to the character of our city, and not least the common courtesy of informing neighbors of an impending demolition. These all need to be addressed, if not now, in the very near future.

Yesterday, I found online the DRAC 2455200 rewrite on the agenda for today, presuming that is the version under consideration. Previously, I worked to understand the issues and made a deep dive into editing an earlier version. In the latest version, I found essentially the same deficiencies that needed to be addressed really from the time two years ago when I became aware of the K1 exemption that was allowing single houses to be torn down without notice to anybody.

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We can't solve all of the problems associated with demolition permitting in the two months since the December hearing, but I conclude that even the most basic level, the language that is proposed is clearly weakening the issues that are needing to be addressed -- they are weakening them in favor of development interests, despite the positive efforts of UNR that our neighborhood has supported.

Consider the issue of time. The DRAC managed -- and perhaps they are not the appropriate group to be writing the code -- the DRAC-managed rewrite requires the appellant not only to decide to appeal and to appeal the demolition permit within 35 days of the application date, but to have both a specific solution and feasible plan for preserving the property to accompany the appeal and the request for registered letter simply adds another gratuitous impediment. The notice and wakeup cycle alone can easily take two weeks. Developing a plan could easily require several weeks of volunteer effort. Even for our neighborhood where we have regular land use meetings and are able to organize a special board meeting in early summer discuss and approve the appeal for cause, we did not have a plan at that point -- and we would not have been able to generate a plan.

Developing a plan takes time and negotiation. It's all but impossible without providing the recognized organization some kind of wedge. The intent of the 120-day stay in the existing code provides time to develop a plan. In two recent examples, the 120-day stay or threat thereof was the only hammer to get the developer to the table to discuss the issues. And it wasn't necessarily to ultimately save the property, but we needed to have that hammer to get the developer to the table. That's not to say that all developers are evil and don't take responsibility, but there are plenty of them out there who really don't want to be bothered discussing the issues with the neighborhood.

**Hales:** Rod, I want you to wrap up soon.

**Merrick:** Yeah. With the proposed language, the developer can wait for the code hearings officer to decide the credible plan is in place and if so, begin to respond. Compressing the delay from 120 to 60 only undercuts the urgency to talk. A BDS plan review can take 30 to 60 days and more with appeals and adjustment; a developer has little or nothing to gain from engaging in any kind of negotiation. I see the unintended consequences of making it easier to demolish viable affordable housing without neighborhood opposition -- I'm just close to finishing here.

The lack of vision or clarity in the new version, the confusing redefinition of demolition, the language to remove the one tool that advantages the neighborhood associations, and not least the lack of public process in developing this suggest that is this proposal is not ready for a vote. The only vote that is essential short-term is the removal of the K1 exemption clause from the existing code. It's common courtesy to notify neighbors of the impending demolition and it's that simple until we get a broader solution. Thank you.

**Hales:** Thank you. You know the K1 exception is deleted in the --

**Merrick:** Right. Take the existing code, strike K1, and we've got a better solution than we have in this proposal.

**Hales:** Thanks. Welcome.

**Gary Clifford:** Good afternoon. My name is Gary Clifford. I am presenting this on behalf of Barbara Kerr.

Forty-three and counting neighborhoods have formally supported the UNR reform resolution. In attending those neighborhood meetings, there was no question they wanted deconstruction if a home had to be removed and could not be moved. The question is, why would you require deconstruction for all demolitions? That's easy. The list of benefits is long. The real question is, why wouldn't you require deconstruction? The answer is time. Mechanical demolition can happen in a day. Deconstruction can take a few days to several weeks.

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Time is money. Requiring deconstruction is thought to be asking the developer to increase expenses that don't increase profits. Free enterprise is being free to produce, buy, and sell a product without restriction. But free enterprise is not free. As a business person, I am responsible for paying the cost of my production. Free enterprise is not being restricted by the public good but it is also not being financially supported by the public.

Mechanical demolition puts hazardous waste into the air, the soil, and the surrounding neighbors' property. The cost of cleaning this up are beyond calculation. Mechanical demolition puts waste in our landfills, which are subsidized by the public. Wood waste releases methane into the atmosphere into the time. Would you put that genie back in the bottle? Mechanical demolition removes existing building materials from our supply, necessitating all the costs to the environment of producing new ones.

True free enterprise would mean the developer would pay these expenses as simply the cost of doing business. Do we really think these costs would be less than the price of deconstruction? A smart business person would work deconstruction into their schedule while working on the many tasks of readying a construction project to be built. There are developers who have found the benefits and are ahead of the curve but by far, the majority have not. Deconstruction needs to be required or we need to stop subsidizing mechanical demolition. Thank you.

**Hales:** Thank you. Thank you all. Thanks very much. Welcome.

**David Heslam:** Thank you, Mayor Hales and Council members. My name is David Heslam, I'm executive director of Earth Advantage, a 501(c)3 nonprofit based here in Portland, Oregon; and I'm 21-year Portland resident living in the Overlook neighborhood. I apologize, Mayor Hales, for not -- I'm not going to speak directly about the delay policy; I'm going to shine a bright light on the need for deconstruction. And since I am not following your rules, I will be very short.

**Hales:** OK.

**Fritz:** Well, I just really appreciate you noting that. [laughter] Nobody else has -- well, not nobody.

**Heslam:** We're at the end of the day --

**Fritz:** No, this is a very important discussion that needs to happen and it will inform the next process that Mayor Hales will be setting up with the Bureau of Planning and Sustainability. I appreciate your acknowledgment that you are not planning to speak to the amendments.

**Heslam:** Fair enough. We've been training, setting metrics of performance of buildings, setting standards and training professionals for 10 years, including on deconstruction practices for the last three years across the state of Oregon. And there are so many benefits associated with it that maybe haven't been totally clearly articulated.

One is around -- it's a great entry point to the residential construction industry to come in as a deconstruction specialist. And the construction industry is in need of more people coming in at the low end of the construction industry and finding a career ladder to move up. If we would be able to promote a large percentage of the current demolitions in the deconstruction, we would see a great increase in that labor force who can move their way up into better-paying jobs as they gain experience in the construction industry.

Additionally, I will supply a copy of the DEQ report that was mentioned earlier, it's a life cycle approach to prioritizing methods of preventing waste. We helped DEQ with the State Homebuilders Association produce that report five years ago. It's still very pertinent. It discusses about 14 different criteria of when the benefiter from waste reduction. Deconstruction versus demolition is specifically discussed, and the health benefits that people have discussed are quantified in here, as well as ecosystem benefits and carbon benefits. As mentioned before, if we could divert about 150 house as year towards

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deconstruction, that's the same as the carbon sequestered by all of Forest Park's trees. Additionally, just one house would be the same as if you could get five Portlanders to turn their five-mile each way commute each day into a bike commute for seven years.

**Hales:** Hmm, that's great.

**Heslam:** For every one house. Thank you.

**Hales:** Thank you. Good afternoon.

**Malachi Milbourn:** Hi. My name's Malachi Millburn, and the spirit of the force is call me beer today. My company is Against the Gran PDX. I'm a furniture-maker, woodworker, professional de-nailer. I've been doing this full time for six years now, and I've saved a lot of wood from historical houses pre-1930s.

I kind of started off with the trend, I was into barn wood and that type of aesthetic. It's a huge trend right now, and it's evolved into wood with integrity, old growth wood, which is really capsulated best in these old houses. I can't believe how much I've seen with my own eyes just get needlessly thrown away, and my whole philosophy and business model is to give this wood a higher purpose. I'm making heirloom furniture that's actually being put into people's homes, and they should it have for hundreds of years or more depending.

I have a lot of good stories, but I'll only share a couple with you. Someone brought up the Markham house recently. Now that was being saved, and so nobody was really thinking of it as a deconstruction because they were going to restore it. Well, I've actually been on the property and that house is in terrible shape. There's really no reason to save that house except for somebody doesn't want an eyesore or something in the new construction. Well, it looks like a Spanish hacienda house; it doesn't fit in the landscape anyway, in my opinion. At any rate, all this wood is getting thrown away into a huge container, and I stopped by and I was like, whoa, what are you guys doing with this stuff? And then I just watched it go away to a landfill. They still had plenty of material there left and so I was like, guys, I can save you whatever cost for you to put that in the landfill -- which ended up being over \$300 per container. I saved thousands of board feet from that house, and it would have needlessly been thrown away.

Now, people think -- they're not seeing the point. The point of preserving the wood from that house was the biggest issue, and everyone wanted to see that house be preserved but the whole skeleton has been removed with new wood. So to me, that doesn't make any sense at all. I just want to let you know it's not that hard to find people like me.

Yeon Building, 7th and Alder -- I removed a flag pole from it in 2012. You can see the documentation on YouTube -- Yeon flag pole -- check it out because it's a 30-foot flag pole I've salvaged and they wanted it to go to a good home. Well, I made a table and the table went back in the building. It's going to be there for who knows how long.

**Hales:** That's great.

**Milbourn:** If they wouldn't have done that would it have just been like, whatever, like everything else. I want you guys to really think that we could be the leaders in preserving the natural resources that we have. Japan is way ahead of us. They've been saving our natural resources and saving old growth materials because they know it's going to be extinct at some point. It will run out.

We need to be the forefront. We need to save -- there needs to be a deconstruction happening to any house pre1930s -- at least a consultation to see what the value in the material is. I consider that under an urban lumber bracket. I would also consider that the urban lumber also includes mature trees in the property. So with the property -- if a developer needs to remove a tree, they also need to facilitate that in the program. I think it should be in the same bracket of urban lumber because there's billions of board feet that

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are eventually going to get removed from this city, and if we don't harvest that a little bit and get it to the right places, we're shooting ourselves in the foot. And we did this in the 1920s and the industrial revolution killed all our trees, and so I am here for the forest and speaking on their behalf. Thank you very much.

**Hales:** Thank you. Welcome.

**Steve Messinetti:** Thank you, Mayor Hales, Commissioners. I'm Steve Messinetti with Habitat for Humanity -- and I'll stay mostly on topic.

I think it hasn't been said enough about this issue of demos is not just an issue related to high-end builders, but as a nonprofit developer, it also affects us and even for-profit developers who are trying to build homes that are affordable to low and middle-income families in our city. And we support the proposal that includes I believe reasonable delays for reasonable reasons.

But I also believe that demos are another variable leading to the lack of affordable housing product in our city, which is I think approaching crisis level. I encourage to you explore ways to increase incentives for nonprofit and for-profit developers to build homes that are affordable to low and middle income families to buy. The tax abatements and the SDCs are set there and are great but they're no longer enough, especially in neighborhoods with rising land values. So, more needs to be looked at to create these incentives to create product affordable to the families who live and work here.

If we can do so, if we can create these home ownership opportunities, our neighborhoods will maintain the diversity that we've talked about and avoid the further displacement that we are trying to avoid. Thank you.

**Hales:** Thanks, Steve. Thank you very much. Thank you all. Good afternoon.

**Paul Sheely:** Good afternoon. My name is Paul Sheely, I'm here to present a perspective you probably haven't heard much in these hearings. I sold a house to a builder. I wanted to share my experience with you so you will hear another perspective on the issue of demolition of houses to rebuild new houses.

In 2010, my wife and I bought a house in South Burlingame for \$400,000. There are houses in our neighborhood built in every decade of the last century. Our house was built in 1949. It was kind of a cross between a '40s house and a '50s ranch. It was a pretty big house, but it was a two bedroom, one bath on the main floor. We knew the floor plan was a little undesirable for that reason, but we liked the house -- we only had one child and we had plans to eventually remodel. It was on a nice corner lot with a partial view. The lot was 100 feet wide facing the street. We put \$25,000 down on the house. The payment was \$2780 a month.

By 2012, my wife and I were in the middle of a divorce. We were facing all the financial and emotional issues that go along with that miserable experience. We had the house for sale for months with zero interest from regular buyers. While it was for sale, we found out that the house had been for sale for two years before we bought it. All the realtor had to say was that for this price, people want a master bath, they want an island kitchen, they want walk-in closets, they don't like the metal siding that went on the house in the 1960s, they don't like the '60s remodel of the bathroom. We didn't get one offer.

Eventually, we got an offer from a builder who planned to tear the house down, split the lot into 50-foot wide lots like all the ones around it, and build two houses on the property. The neighbors found out about and it started showing up at our door, demanding we not sell to a builder. They held meetings in fronts of our house, they confronted me as I came and went.

These people had no intention of putting up any of their own money but if they could have done it, they would have been willing to prevent my wife and me from selling the property while forcing us to keep paying the mortgage as long as they could delay the

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procedures. Every four weeks, I would send in that \$3000 -- they would have held things up as long as they could. They tried to dissuade the buyer. They did whatever they could. These impediments will be used for exactly that purpose.

These neighbors would have no problem with us just continuing to make that payment until a buyer that was more to their liking came along. This offer from Everett Homes was the only offer we got. It broke my heart to see that house get torn down. But I pay my bills. I sent my payment in every four weeks.

No one wants urban sprawl. We all want to keep our close-in neighborhoods nice. We like having our property values go up. We want to make efficient use of the infrastructure. This house had 100 feet of street frontage that serviced one bathroom. That's 100 feet of street, gas, electric, street lighting, police, ambulance -- all those serving the purpose of feeding that one bathroom. It was a two-bedroom, one-bath house on 100-foot wide lot. The fact is it had more value as a lot than it did as a house. That's why these house are being torn down.

As you do your job, please remember that these lots are private property. Putting restrictions on the ability to sell an unmarketable house just to please the neighbors is in my opinion a taking of private property by government. If there's an easement for view or an easement for light, let them enforce it -- but there just isn't. The City imposes height restrictions on house. These are permitted houses. These houses aren't being torn down to build bars, and they're not being torn down to build mini-marts, they are being torn down to build other houses. It's not a change in use. It's private property.

I know you're never going to keep anyone happy, but remember we are talking about real state rising to the highest and best use. That's what happens when a city is thriving. Take a look at any picture of an old neighborhood in Portland from 100 years ago. It's full of old houses that aren't there anymore.

**Hales:** Appreciate your testimony, I want you to wrap up.

**Sheely:** That's it.

**Hales:** OK. Thank you. I appreciate your perspective.

**Sheely:** Thank you.

**Brandon Spencer-Hartle:** My name is Brandon Spencer-Hartle, I am here today representing Restore Oregon and I'll be as succinct as I can.

On July 31st, many of us who are in the room today came you with three asks. One was to define demolition in the building regulations; two was to remove the K1 exemption to get us a 30-day mandatory delay with an additional 120-day option; and third to establish a demolition task force. Since that time, I've been working closely with BDS staff and the Development Review Advisory Committee. Since that time, it's also been six months for us to get the emergency changes that we asked for in July, and the proposal in fronts of you doesn't go as far as we had asked.

I am here today to support this as a compromise emergency measure, but to support it with the caveat that we hope that future changes from the council and the establishment of a task force indeed follows up today's discussion and the discussions ahead of us. The compromise that's in front of you will allow us to collect better data, focus energy on zoning and compatibility issues, and explore models for deconstruction policies. These changes to Title 24 -- while necessary and hopefully the first step -- will not by themselves resolve the neighborhood change crisis we are facing today.

So, I'm here today to ask you to approve this thinking of it as an emergency compromise and looking forward from a more proactive and inclusive process to address zoning, compatibility, and the larger demolition question of what does this mean for the city and where are we going? Thank you.

**Hales:** Thank you both.

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**Rob Humphrey:** Mayor, Commissioners, thanks for your time. My name is Rob Humphrey, I'm a citizen of Portland. My business is Faster Permits. We're a building permit management and consulting firm serving Portland residents for nearly 24 years. Our clients do include governmental agencies, industrial organizations, commercial businesses, developers, residential builders, architects, engineers, and many other parties whose activities require building permits. We have managed countless thousands of building permit processes in the city of Portland, but the most significant of these are the thousands we've managed for the citizens of Portland: homeowners, potential home buyers, people whose homes require renovation or those whose homes have outlived their intended life expectancy and require replacements.

I also serve as vice chair of DRAC and have participated in virtually every meeting of the DRAC demolition subcommittee. I would like the council to know and to hear that this committee has been unusual, unprecedented and in fact, ground breaking in the manner in which the stakeholders on all three sides of the issue -- the Portland citizens and neighborhood associations, specifically, the UNR was there in force, and there was a moment there where one. UNR folks was disappointed that DRAC was writing code, but to be more specific, the DRAC demo subcommittee that wrote this code had I think four members of the development community -- one of them being me, which I'm sort of not because I represent both sides -- a home builder, and two residential remodelers, and the rest were city staff and the neighbors. So, that's really who wrote this.

**Fritz:** How many neighbors were there?

**Humphrey:** Many. I mean, it varied with each meeting, but there were many.

**Fritz:** So, anybody was welcome to come and participate?

**Humphrey:** Yeah, it was wide open and I was impressed with the way the City gave everybody a voice in that, it was very inclusive.

Anyway, going back to my point, those folks were at the table and BDS staff and the residential building community were represented there with the three that I mentioned.

Anyway, I'm impressed by how they have collaborated in such a meaningful way. Imagine what it must have been like to have each of these stakeholder groups, each well-represented -- as I mentioned -- locked in the same room and each with a voice for countless hours over the past several months. Though painstaking and often heated, we held the line. We didn't give up. We stayed the course, even in the face of so much off-topic discussion like, why does zoning code allow for two homes to be built where one once was in my neighborhood? Or, what about the process of deconstruction? I'm here just to talk about agenda 169 today.

I'm convinced that all sides have come away with a new-found understanding and respect for each other's position, the likes of which I haven't seen previously doing this for 24 years. Yes, I am saying that I have witnessed citizens and neighborhoods respecting residential builders -- even lot-splitters -- and vice versa. Most importantly, we have come away with a proposal to you, our City Council, that has been well vetted by each of these stakeholders. And I'm not saying it's been vetted by each and every citizen of the city, but it certainly has been vetted by those who came to the table for those countless hours and weighed in on every side of the debate.

And we're not just talking about neighborhood associations and in-fill developers here, we're talking about that middle aged woman who inherited the 800 square-foot home that she grew up in, staying there for 20 years and saving every penny, knowing that her retirement was secure in her ability to one day develop that land. It's the young family who bought the only house they could afford, one beyond its intended life of service on that perfect piece of land in the perfect neighborhood hoping one day to build a bigger and healthier home for their expanding family. And it's that family whose life has been rocked

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by illness, the only means to pay for treatment is to split that lot off their home and sell it or develop it.

Make no mistake, all sides have compromised in this matters. Reducing the 120-day expansion was a huge give by the neighborhoods. Likewise, eliminating the K1 exception was a huge give by the development community. But where will we end up? We'll end up with a mandatory 35-day notification period on every demolition by which no citizen should ever again be surprised by a bulldozer tearing down the house next door; we'll also end up with a meanings by which interested and capable parties are afforded more time to seek alternatives to demolition; and we'll have pleased the opportunity for those who sought to abuse the existing system for reasons that were not in seeking alternatives to demolition.

In conclusion, I respectfully ask that you vote today to approve DRAC's proposed modifications to the demolition process as written. It would be a great shot in the arm to those former foes who are experiencing for the first time a degree of unity. Thanks for your time.

**Hales:** Thanks for your work on this. Thank you. Mr. Fish?

**Jeff Fish:** I don't think I will be -- Jeff Fish, Fish Construction. Been a builder for 42 years in Portland, an infill builder. I'm a DRAC member, came off DRAC on January 25th -- came off as chair on January 25th but I'm still on the subcommittee at Maryhelen's request. Pretty hard to follow up what Rob just said. That being said, when I asked him to be part of this committee several months ago, he initially poo-pooed me and didn't want to do it. As you can see, here's a guy that sees the issues and understands the issues and I think did a great job of summarizing things.

But I want to move on, I want to address some of things brought up today. I don't have any specific written remarks. That hazardous material issue is going to be a bear to deal with. We dealt with it at DRAC, got into it. There's a lot of different facets to it. Asbestos is handled by DEQ. Lead-base is handled by the Oregon Health Authority. And for lack of a simple way, they don't care about what happens on the property next door, they care about what happens with the worker tearing down the house. Now, if he's in jeopardy, then they pick up the house next door. That was the best way I could explain what we were told by Chris Zimmer.

I also talked with some BDS staff -- and I don't think Paul knew about this until I mentioned it to him a few minutes ago -- it's hard to interpret -- one of the BDS staff I talked to was in that business prior to going to work for the City, and he said you can write an asbestos report and you can tweak it so it doesn't look too bad but get away with stuff. So in some respects, it puts the BDS staff in a bad light if they accept a report that somebody later is kind of going around. So, I'm not telling you go there, I'm just going to stay it's a land mine to walk through.

The other thing about that is, I've tried to find out on -- there were two house on 16th just north of Holgate that were torn down, supposedly had asbestos floating around. I haven't been able to find out from DEQ whether or not those houses did have the problem. I think there's a lot more hysteria than there's actually in problems. We tore a house two years ago behind the Martin Luther King Parr Lumber company. We had an asbestos report and asbestos approval. I walked in that house. It had -- one of the items it had was a popcorn ceiling. I walked in that house and I see sheet rock dust all over. And I walked right out the door and called both the persons that wrote the report and the person that did the removal to make sure they got the stuff and I was assured they had. So me who has been in business for years, looked at that and I thought I was putting myself in jeopardy. So, there's a lot of hysteria out there that may not always be truthful.

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There's thousands of dollars of fine if you get caught. That's one of the reasons why we put on the BDS application that you've done your research on that because that gives the state a chance to raise the fine or levee a heavier fine. They have the tendency to go into a fine -- if you haven't done anything -- to kind of slap you on the wrist. This gave them a little bit more leverage admitting that you had done your research and they find out you hadn't and you lied to them, they feel they can hit you on the pocket a little bit more. We have an excavator that got caught some years ago, didn't do his work. He got a \$7500 fine and the builder got a \$7500 fine. He won't tear a house down unless he sees my report. So, the fines are out there scare people. So how much you need do to go over the top of that, I don't know, but I'll leave that with you.

The lady came up and testified about developers buying houses and little old ladies -- there was an article in the paper here four or five months ago, we probably all share that. I can tell you about 15 years ago on a couple of Sundays I drove from 11th to 82nd from Hawthorne to Holgate. I found about 100 properties that had a lot that I wanted some interest in buying. I sent out 60 letters telling them I had an interest in buying those lots. I got two responses back and those two responses were, "I'm not interested." There may be guys doing it but in my 42-year career, I don't know yet they've bought a lot that wasn't realtor involved in the process. Maybe a realtor contacted a little old lady, signed a listing agreement with the little old lady and came and saw me, but there was somebody protecting. So, there may be a little bit of that happening out there but it's not a big amount in my opinion.

I want to remind you that if you have 120-day delay on 300 houses, that's 3600 months -- excuse me -- that's 1200 months, that's 100 years' worth of delay. Think about the cost of 100 years' worth of delay for one year if we delay everything 120 days.

About 25 years ago, a good friend of mine got me started in the building business. I was complaining to him about the regulations of cost of building in Portland versus other jurisdictions. He says, remember one thing: the harder it is, the more competition it keeps away from your doors. So, think about that in the context that, yes, we have to tackle these issues whether it's delay, whether it's deconstruction -- but if you get too much regulation, you drive competition away. You do not necessarily drive the problem away. You find guys like me that are 42 years of figured a way to stay in this business while some of my competition has gone to Washington County or Clackamas County or across the river to Vancouver.

I think that's pretty much -- oh, one thing on the 60-day appeal -- and Nancy can address this better -- in talking with the codes officer, there's going to be times the code officer not going to get to that appeal for 60 days. So, the neighborhood may even have a 95-day delay without really producing much evidence for that delay. It depends upon the volume of what's on the codes appeal officer's desk, and the codes appeal person told Nancy that there could be times where he might be writing his decision on the fifty-ninth or sixtieth day. I think that pretty much covers mine, and I'll turn it over --

**Fish:** Can I ask you a question? And I wasn't going to ask you a question because I was hoping to catch my ride home -- I just lost my ride home, so I'm going to be asking if I can bum a ride --

**J. Fish:** I can give you a ride --

**Fish:** I'll be taking the number 12. You testified eloquently, and I want to ask you a question. And by the way, I think the DRAC has done good work here. You've raised the issue of how to address lead and asbestos. I've been going through what other cities and communities do in Oregon, and I just wanted to ask you because I'm very -- you've made this point about regulatory burden and cost and making sure there's no intended

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consequences. You're very thoughtful on this. I always read you carefully in the newspaper because when I see the word "Fish" and some quote, I think maybe I've been quoted.

**J. Fish:** My latest quote wasn't very good either. But anyway.

**Fish:** I remind people you and I are not related, you're entitled to your view. I wanna ask you about asbestos and lead paint. Right now, when you get a permit from the Bureau of Development Services, you have to self-certify a number of things, correct?

**J. Fish:** Pretty much. I say "pretty much" because I use Rob quite a bit --

**Fish:** Justin gave me a primer on this, but there's a number of things you have to self-certify. You have to say, I attest to the following. You sign it and you're done.

**J. Fish:** Correct.

**Fish:** So, it looks like at least one county and one city has a similar system for asbestos and lead. There's a box that you check to say you've done a survey. There's a box to check that says in the event it's been detected, you've complied with the law in terms of its removal. There's some other box and at the bottom, it says you better be careful before you sign this because this is a legal document and you are attesting that everything is true. You sign it, file it, and you're done. Why wouldn't that workable?

**J. Fish:** To the honest with you -- I haven't seen the ones you're talking about -- Hillsboro has one I think that's pretty nice, we tossed around at DRAC -- where you check off boxes, you talk about whether you have an oil tank in your basement -- it's a hazardous problem. You can check it off.

**Fish:** The self-certification.

**J. Fish:** Yeah, and I think -- but you have to have a way to get to the penalties. I'll give you a prime example -- and I can't figure out why it's this way. When you take out a temporary electrical permit -- and there's hundreds of those taken out -- they are only supposed to be taken out by a supervising electrician or homeowner. And we as builders take them out all the time. It's the same way in Washington, same exact wording. And when I was a rookie builder, I asked, why don't you change the form, since you let us take it out? The whole darn industry looks away. So, there are boxes like that we check off on specific forms that the industry looks away or the regulatory branch looks away. In this case, I'm talking about an electrical temporary permit to put a temp up on the job site. I don't think anybody really cares a whole lot -- you guys inspect it, the power company inspects it, nobody gets hurt. If the fines that are coming out from DEQ and maybe from Oregon Health Authority on lead base are regular and heavy, it's going to change the industry. I mentioned my excavator. He won't touch something unless you got report because he's already been fined \$7500. So, if there's anybody cheating the system -- there's always going to be somebody cheating the system. But sometimes you're led that way by the fact you can check an electrical box form off and nobody does anything or cares about it, but maybe over here you better not check off the hazardous one. See what I'm saying?

**Fish:** I'll use an analogy. When people come to seek employment with the City, we have to fill out and in, I-9. And they have to show an identification, we Xerox it, we check the box. We are not required to call the state transportation bureau and say, did you issue this license? We're not required to call the State Department and say, is this passport valid? We're covered under the law. It's just someone has given us -- it's presumed valid, it's signed, and we have complied.

I'm very sensitive to the concern I'm hearing from the bureau and the Commissioner-in-Charge about imposing new paperwork requirements. I'm sensitive to the concern about having to have inspections and other kinds of things. I mean, these things are issues of manpower and cost and other things. But I'll tell you just as someone that lives in a neighborhood, I think I would feel more comfortable if I knew that someone had checked the box saying, we did the survey as required by law, because DEQ requires that

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you do a survey external and internal. It's a legal requirement. Someone checks that and says we did it, and in the event the survey says there's a problem, there's a box that says that you contracted with the appropriate person to remedy it.

I'm not suggesting that that requires Paul to send anyone -- out unless there's a complaint -- to do anything further. But seems like lots of other cities and counties have just gone that route of self-certification, and it seems to me that that might be consistent with what the public wants to know without imposing an onerous requirement on your industry. And if you're right that there aren't egregious violations that many of the homebuilders are responsible, then it's just checking three boxes and signing something. If we're wrong -- as with respect to somebody in your industry doesn't have your ethics -- then we hope they throw the book at that person. We hope that that form gives us a basis to go heavy on the fine.

**J. Fish:** Here's part of that confusion. Maryhelen, correct me if I'm wrong -- you're not required to get an asbestos survey under four units, but if you get caught dealing with asbestos or letting it loose then you are penalized because you didn't get the survey. Am I right on that?

**Maryhelen Kincaid:** That's part of legislative reform that some of the interested parties are looking at -- that I know of, I'm sure there's other people and I've heard people speak about it today. But I know there are people looking at that because they're not required by state law for anything under four units. But if a worker is exposed to it, then that's where they --

**Fish:** I think Hillsboro has been creative on this one because they just said, you must ascertain the presence of asbestos in or outside the structure, and you must conform to the DEQ rules.

**J. Fish:** Yeah, you can go above their requirement.

**Fish:** And that does not seem to me to be an onerous requirements a, because of the impact on worker safety and health; and b, what might happen with the neighbor and what happens with the dumpster and anyone in the chain. I don't know that we can resolve this today, Mayor. But it does strike me if this DRAC is operating at a very high level in coming up with a compromise before us, maybe the easiest thing is just to pose the question to DRAC: is there a certification process that they can recommend to us, add a separate sheet to the application, and then test-drive it. See whether that solves the problem without a heavier hand of regulation.

**J. Fish:** The only problem I see with this -- and Rob and I talked about it -- is when that gets signed off that you're checking the box off that I'm doing my asbestos certification or whatever, either I've got to sign that form and have a blank form to give to Rob to keep in a stack at his office or in his car when he turns in my applications, or Rob has to sign it for me. As he and I talked about, he's got to know the builder really well then he's probably not going to sign it even if he does know him well. So, there's a little bit of -- it's kind of like where we all have been where you sign the check in advance and you trust somebody to do something with that.

**Fish:** You're right, because Hillsboro requires the property owner to sign. Maybe the law allows you to do an attorney in fact, but.

**J. Fish:** To follow up on that idea, I meant to mention this earlier -- one reason we went to the registered letter was one of the land use staff said just couple weeks ago, somebody signed a fraudulent land use application they'd sent a letter out.

**Fish:** We've been convinced by Commissioner Fritz on that. But this one doesn't seem like -- the thoughtful people who came up with the ordinance before us it seems to me could fix this in a meeting and come up with an additional check, a couple of boxes to check. It

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doesn't require the director to look behind the certification but it requires that someone say we've done the survey and if necessary we've done the abatement.

**Fritz:** I would like the director to come up after we're done. I know Maryhelen hasn't had her testimony yet.

**Kincaid:** I feel like I should tell jokes or something, get everybody up moving and have some circulation. Everybody said the things that we've accomplished. I think we've done great work. I was happy to be a part of it. I started this out with saying -- the very first thing I said was, tell me some of the things I don't know because there's a lot I don't know. So, I think everybody in the process learned. I think all of you learned from this process.

I want to address a couple of things about hazardous waste. It was monumental I think that we got the state and the city in a room talking and working on issues, and we're going to continue this. But we kind of had to wait until we got to this point and have Council say, carry on. And I think there's great impetus to do that.

I want to speak a little bit to this committee. I think that this DRAC subcommittee was highly representative of a diverse bunch of interests. I kind of took a bit of offense when Terry said something that we didn't do enough public process between Jeff and Claire and Rob and the people on the committee -- we went to over 50 meetings, and they were nighttime meetings and they were daytime meetings and they were not happy meetings. So, we did do a lot of public outreach, and we did do that. I think that we saw a broad array of opinions and took all of those into consideration. And I'm going to go back to -- I've said this many times since December 17th. Robert McCullough was not a big fan and he sent me a flaming email telling me I was an idiot I was, and so I just said we need to meet for lunch. And then December 17th he proposed marriage to me, so I thought that was a pretty good turnaround. [laughter]

**Fish:** I don't think he meant to send that email to you, I think it was one of us.

**Kincaid:** Could have been, but I was in good company. And so now he's a supporter.

I wanted to relate to you that prior to being here I was at the chairs and directors meeting, ran this proposal by them. They said, it's not perfect, but nothing is perfect and we support what you do. And they've heard back from their neighborhoods and we have that support. I was glad that Brandon from Restore Oregon was able to come to the table and add information to this, that Rob became involved and the builders that could show us where there are loopholes or things that wouldn't work.

The things you didn't hear -- DRAC first identified deconstruction as a big issue, but we said it needs clear definition and it needs a lot of work. I have -- just recently, two days, I don't know what today is -- Monday did a ride-around with the building inspector. And the very first two houses we went to were older homes being remodeled by guys that really want to remodel older homes. There's got to be some synergy there. And in my flying little wild brain, I see a lot of opportunity in our innovation program. That we could find those people, use those resources with neighborhoods -- because you heard neighborhoods don't have time, they're not equipped. But they have people who are doing this, and if we can connect those people -- the neighborhood wants to save a house, there's people who are doing it, energetic, they want to do it, they have a business model -- somehow we can find a connection and I think your follow-on BPS committee could do that.

I think the oversight committee for this proposal -- yes, it needs to be well-balanced, but we did a good job getting here and I think that most everybody wants to continue on to do that. I don't think it needs to be a whole bunch of new people to get caught up to speed.

I just read an article about Los Angeles. You could have taken out the words Los Angeles and put in Portland. And I shared it with --

**Hales:** That was Sunday.

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**Kincaid:** Yeah, and I shared it with Matthew and Jackie Dingfelder and said, look, we're a year ahead of them. They've been talking about this for 16 months and they don't even have a committee to address this, they have a bunch of people and they think they're going to do something. So, I want to say yay, we're ahead of Los Angeles on that one.

I think we're able to identify -- you just used the word unintended consequences. I think we identified a lot of those, but there's going to be more. We don't know, and that's a whole part of this thing.

Back to quickly on the hazardous -- the ONI summit that's coming up on February 28th, two representatives -- I think I mentioned earlier but it's really important because I heard a lot of talk about hazardous materials -- unfortunately, it's scheduled at the same time as the mayor's presentation at 1:10 --

**Hales:** I think I know where people will be then.

**Kincaid:** Yeah, well there's a work session and they're going to explain regulatory functions of all agencies, and one agency that didn't come up in all of this that's got the biggest hammer of all is the EPA. They are huge fines, and it's the complainer that gets to collect part of the fine if they find offenses. And so, that needs to be explored and how it filters down through the state through -- and it's very complicated, please don't ask me to explain it, I just know it's complicated -- that need to be brought into the discussion.

Sort of in closing -- and I always usually close, and John Wooden is my favorite person to quote. He has a quote that said, if it isn't difficult, it isn't worth doing. I think we took a difficult task and we did a lot of really good work. And there's a lot more to be done, and I'm trusting that -- if there's one or two or three committees -- but task forces that follow this up I think we'll do a lot more good for the city. Right now, we need to protect what's out there and I think this is the best way to do it for right now. And thank you very much for sitting here for three and a half hours listening to testimony.

**Hales:** Thank you for the many hours that you and other DRAC members put into this work. Other questions for these great volunteers?

**Novick:** Did you say John Wooden?

**Kincaid:** John Wooden.

**Novick:** That's the first time I've heard John Wooden quoted in this chambers. So, I appreciate that.

**Kincaid:** Well, I did the last time. He has another one about teamwork.

**Novick:** I appreciate it. I just want to say I thought you guys did phenomenal work and I've been sitting here saying nothing because I figure, this looks good, I'm going to vote yes. I understand people came to address a lot of other issues that were we're not addressing this in this particular piece, but thank you very, very much for all the work you did, everybody who was involved including Commissioner-in-Charge. I've not followed this issue all that closely but I was aware of where we were several months ago and looked at this leading up to this meeting and thought this looks like a terrific way to address the issue. I just wanted to say thank you very much.

There's one thing that has puzzled me, though. According to Wikipedia, deconstruction is a literary theory and philosophy of language derived principally from Jacques Derrida's 1967 work *Of Grammatology*. The premise of deconstruction is that all of western literature and philosophy implicitly relies on the metaphysics of presence, where intrinsic meanings are accessible by virtue of pure presence. Deconstruction denies the possibility of a pure presence and must have an essential or intrinsic meaning. So, I've been surprised to learn today that so many Portlanders deny the possibility of pure presence unless an essential or intrinsic meaning, but that's I guess another example of Portland being weird. [laughter]

**Hales:** Thank you, Steve.

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**Kincaid:** I think I also need to -- and I didn't say this, I think I gave Nancy a mug about being a cat herder at the last meeting. Staff has been tremendously supportive and I think that needs to be recognized. Because I have been on a number of committees that haven't functioned as well, and I don't think it's staff, but I just think that somehow it was a perfect storm that we got all the right people in the room and a really good product came out. There was a lot of support from Paul and all of his staff at every meeting to inform and have honest discussions like ooh, this won't work, or, this is a great idea. So, that part needs to be recognized as well, because they put a lot of time and effort into it in a really busy time for them.

**Hales:** Thank you.

**Fritz:** Thank you for that acknowledgment. Thanks, especially to the three of you for your citizen leadership on this matter. My favorite John Wooden quote is that success is the peace of mind knowing you did the best to become the best you're capable of becoming. And I think you three particularly have done your best to make this code rewrite the best that it's capable of becoming at this point, and that you have reached a compromise. And I think another thing that is often said is if nobody is happy, then you've done a good job of reaching a compromise. I think we've heard that very clearly.

So, I'm not hearing any amendment requests on the code. Let's just -- I want to bring us back to the charge that we gave you, which was to look at the demolition delay regulations and in particular the K1 exceptions. Nancy Thorington in her excellent presentation -- and thank you for staffing this entire project, Nancy -- pointed out that after Director Scarlett and I made changes in the summer of last year to clarify that it was just a one-for-one exception to that demolition delay, we have in fact experienced a lot fewer demolitions delays -- fewer demolitions. So, that has done what it's supposed to do.

You were charged to look at what's the long-term version of that, and that's what we've got here. As a result of having a great public process and several public hearings, we've heard from a lot of community members including united neighbors for reform that there's a lot of work that neighbors are anxious for. And with the construction trade picking up astronomically as the recovery has taken place, plus the relative difference between not having any construction at all over the course of recession or very little to now phenomenal amounts of changes happening in neighborhoods, it's very challenging to figure out how to manage that. And I know your staff in Planning and Sustainability are working on code language and the comprehensive plan, looking at design and those kinds of issues.

In the meantime, we also need to look at affordable housing and so I'm pleased that the Housing Commissioner has agreed to take on this question of what are the appropriate incentives or requirements, and then we will certainly want that committee to give their recommendation to the Development Review Advisory Committee because the fees would be assessed at the permit center.

There's the issue of hazardous materials -- again, Maryhelen, thank you for your leadership on that. We could do the simple check-off piece. It's still more self-certification. And what I've heard from the community is they're looking for more than. If we're going to do more inspections, we as a Council have a choice to make between do we want to fund them with general fund for that purpose? The Development Services bureau advisory committee and budget advisory committee is asking for money for inspection of rental housing as our priority for where we think we have the most hazards in terms of mold and lead paint and other horrible conditions in multi-family apartments that take months to get inspections for those kinds of problems even when complaints come in. So, there isn't an unlimited amount of money for general fund support to Development Services. There are limitations on what we're allowed to charge for in permit fees. So, the question becomes, what's the higher priority -- and in particular, for staff time?

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As I mentioned at the outset of this hearing, I'm glad that our piece is to work on this hazardous materials part with citizen volunteers. We can manage that. We have the technology computer project that's in full force. We have all this permitting. We've got 22 staff that came on board earlier this year that are being trained up, and I've got a request for another 19 staff in the budget. Going from a bureau that had 150 staff just a year and a half ago to now having over 270 staff in the bureau. So, these are all the challenges that we in Development Services are facing. We can't continue to keep adding more planning projects, more code improvement projects that aren't part of a funded work plan.

**Fish:** Let me -- and I appreciate this discussion. In fact, I appreciate this whole hearing. I think we do our best work when we have these public conversations. And I have learned some things today that I didn't understand. The testimony, the dialogue I think has helped shape it.

Let me offer an analogy, though. We occasionally have these hearings about siting of cell phone towers, and we have community members say we're very concerned about the health impacts. The City has to say to them, the federal government has said we are not allowed to consider health impacts. We're preempted. That's how much power the industry has in Washington. We can't even evaluate it. Well that's frustrating, because it's the elephant in the room -- we don't know whether there are health impacts but we're not even allowed to address it.

Let me bring it closer to home. I don't know whether this is a problem or not. I don't know. But if it happens at a site and someone is harmed because of it, I think we all would feel terrible. That's what I look at. So then the next thing I do is say, well, it's an issue, how have other cities and counties that are struggling with the same issues Commissioner Fritz has identified -- staffing, what kind of regulatory oversight, who's on first, different jurisdictions -- so, that's interesting. And what I see in the materials is it's a range, but there are a number of jurisdictions that require either someone to self-certify or an accredited asbestos inspector to say it's OK. That's how they've sliced it. And I don't know what the right balance is. C

Commissioner Fritz is absolutely right, we can't just sit here saying we want to fix this, Commissioner Fritz, find it within your budget. That's not fair. If the council says it's a priority, we have to find the resources to cover the cost. But what I find -- what I've learned today is an issue has been framed that I think we all agree is serious. And Jeff, we know your reputation as a builder, so we know which side of the line you operate when you do your houses but that doesn't mean everyone in the city is operating by those standards. So, there's an issue and there's a couple of ways to deal with it. One range is heavy handed, the other is lighter touch. I don't know which is the best one. I turn to the experts like Paul and his team or DRAC, because you are a wonderful deliberative body, you can help us guide that.

**Kincaid:** And the state has a lot of ideas of how communications can go back and forth because Chris Zimmer, who was our a primary contact, was just elated that we have that check box because that gives him teeth, and he has suggestions of how we can go forward. It's just those conversations didn't happen until January -- or no, sorry, November.

**Fish:** The check box does say "I will comply with all such regulations" so --

**Kincaid:** Yeah, and that gives him some enforceable tool if somebody is reported. So, yes, just started the conversation, so I think there's a lot of opportunity for more soft touches and hard touches.

**Fish:** Yeah, so that's thought chopped liver, right? I will comply with all such regulations.

I guess where I land on this -- because I am going to support the good work that you've brought forward to us, we're going to vote on it next week, but I will support it -- is just, Mayor and Commissioner-in-Charge, just some follow-up process to consider whether

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any of these other models would be adaptable to BDS with the clear understanding that if the Commissioner-in-Charge and the director feel any of these is enhancement that the council needs to step up to fund whatever is the impact of that and that's the only reasonable approach to this. But I do think within the stack of papers there are a couple of interesting ideas. I would welcome -- whether it's self-certification, whether it's an expert certifying, your question about whether you can delegate it to your agent, or not -- those are all great questions but hell, you brought this before us. This I think you could also come up with something that would move the ball and I would hope we could do that on an expedited basis and have the Commissioner-in-Charge and the director tell us if there's a model they would support.

**Kincaid:** Will that be in the record? Because I didn't get a copy.

**Fish:** It's in the record and I'll give you mine.

**Kincaid:** OK.

**Hales:** And obviously, the DRAC is a great resource.

**Fish:** And I will tell you, I do know what some of the problems in my house are and the house next to me is the mirror image. I sort of have been a little puzzled over why people aren't wearing hard hats, and a little puzzled about some of the accountability at the site, but I've watched what happened to that house and stuff was just stripped. And I don't know whether there was asbestos or lead paint but it is a 1920's bungalow. I'm just -- from what I've learned in my neighborhood, I'd be willing to bet there was. And there's a huge dumpster out front, and there's a house that was taken down in two days, and my 11-year-old son plays soccer in front of our house. I just have a more than passing interest to know, have we done enough to make sure that the workers are safe and he's safe? That's where it comes from. And if Commissioner Fritz says comes back and says DRAC and she have come up with an idea and it costs a little bit more, you know, I can't take it out of the rates to cover it but I would support a general fund ask.

**Fritz:** I'm glad to hear you say that, Commissioner, because even what we're proposing to adopt next week -- as I mentioned at the beginning -- does come with a price tag. The additional notification, the fact that there will be much more opportunity for appeals -- every proposed demolition will now have a delay and potential for appeal. So, it's a staff person. Again, we'll be asking the DRAC and the subcommittee to look at what's appropriate to tack on as an application fee and what needs to be general funded. And certainly, it's \$92,000 that we'll be asking for as a new ask in the budget for the appeals waivers as a seed fund to start that off until we see how many there are.

**Fish:** That's why it should be fully funded. And whatever the cost is, we should not burden you without the resources. I do know from my service in the Housing Authority of Portland board, now Home Forward, that we used to get federal grants to do lead paint abatement, but in those units where we didn't act quickly enough, the consequences were horrific. And that's -- I just want to know that we've gone the extra mile on that one. And if it does set up the bad developer for getting whacked heavier by DEQ or EPA after they've certified something -- Jeff, I think you'd agree that person doesn't belong in your industry.

**J. Fish:** Right. We don't want to compete with that kind of person -- those of us that are legitimate.

**Fritz:** But we're talking about \$92,000 for fee waivers -- and we need to do that so we have equity and it's only the affluent neighborhood associations that can appeal -- that takes money out of the general fund that then is not available to be spent on the additional enhanced inspections that we've asked for in the budget.

So there isn't -- there's a finite amount. So, for 400 demos we've had this eight-month process now and got this great set of standards -- that's 400 homes versus -- and

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obviously they've got homes around them as well, so maybe 2000 homes are directly affected by them. The apartment complexes that have hundreds --

**Fish:** You know, I'd even settle -- I don't want to negotiate against myself, but there's even one jurisdiction that says you just have to post at the site your survey that says whether there is or there isn't. I mean, that's a public right to know issue and then the complaint process drives it. But within here I think there's something that adds to what I consider to be a significant improvement already with the language you've added that you have to initial, but something else that might give the public a little more confidence.

**J. Fish:** Commissioner, I meant to bring this up and I forgot to. The \$92,000 or \$97,000 for that -- does it make more sense to set a smaller block aside and analyze it to see if it's being used correctly as far as neighborhoods appealing and wanting to preserve a house versus neighborhoods thinking there's almost \$100,000 there and we can kind of waste it we want on this one -- not to say they would do necessarily do that -- but think that way. I was thinking if you set 15,000 aside it would allow the dozen -- right now, there's been about a dozen appeals in 120 days -- 12, 13, over a period of three, four years. Anyway, I was thinking a lesser number and then look at it once those appeals go through, is it working, does it need to be tweaked rather than setting a bigger number aside. Just an idea.

**Fritz:** There's no guarantee the first dozen neighborhoods that come in are the ones that actually can't pay themselves.

**J. Fish:** But I thought you could add to it. I understand if you use that money up in the first four months and you don't have a BMP coming for another two or three, something might fall between. I was thinking of a lesser number to try to --

**Fritz:** We at BDS are very diligent about using the money from the correct buckets, so we can't dip into another bucket to front load it. This is the most honorable way, I think. And obviously, if we haven't used, then it we don't need another ask the next time.

**Fish:** But this -- with all due respect -- is a citywide concern. And Commissioner Fritz may be required to be the lead agency in implementing it but if we're going to do it, the City has to back her up with the resources.

**Hales:** Right.

**Fish:** This is where the commission style from government sometimes seems rather siloed. I mean, she may have the burden, but the cost needs to be shared citywide. It is not fair to tag her with the cost. And frankly, this feels to me like a life safety issue that rises near the top. And that's why I would like DRAC to see if we could get us a recommendation sooner rather than later.

**Kincaid:** It also goes to -- in deconstruction when you're saving older homes, and like you said, there's lead-based paint on 99% of them, probably.

**Fish:** In these 1920s homes, Jeff Fish will tell you that there is asbestos wrapped around the pipes in the basement, there's lead paint, and it is pervasive. And the reason we know that is we're often told when we buy our houses that there's that problem.

**Kincaid:** And I witnessed that on my building inspector ride-along because I was asking deconstruction and he was giving me all his building practices. And so, I had to make a note -- it's like, OK, when we're looking at deconstruction, we have to look at what we're deconstructing and how that hazardous material is being handled. So, I see that interaction with BPS and the deconstruction proposal that they need to look at the hazardous waste and how those codes won't conflict. It'd be great to take a house down and take all the wood away, but if you're exposing people to hazardous waste and not requiring that piece of the puzzle, then you're going to have another problem.

**Fritz:** Well, thank you again for all of your work. I think, Mayor, given the late hour, I won't ask staff to come back up. But Commissioner, would be happy to go through a full briefing

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for you on the work that has been done -- some of the suggestions you have, what we've considered, what we might be able to move forward on.

**Fish:** Are you open to having the DRAC consider specifically whether any of these policies of other jurisdictions could be adapted to Portland?

**Fritz:** Yes, and we have done some of that work already. Since it's not in the code, I was able to make for instance the check the box change myself as Commissioner-in-Charge. Given your interest, in this I'd be happy to partner with you to make sure that whatever we decide to move forward with within the bureau is something that you would be comfortable with.

**Fish:** Gracious.

**Hales:** Thank you again. So, we've now amended the ordinance today and heard testimony, so we'll schedule it for second reading and Council vote next week. And obviously, you'll be hearing more from us about the other elements of this issue that we've talked about today, and a schedule and public involvement opportunities on those as well. Thank you all very much.

**Fritz:** Thanks very much everybody.

**Hales:** And we are adjourned until next week.

At 5:43 p.m., Council adjourned.