



CITY OF
PORTLAND, OREGON

**OFFICIAL
 MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22ND DAY OF APRIL, 2015** AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Karla Moore-Love, Clerk of the Council at 12:00 p.m.; Ellen Osoinach, Deputy City Attorney; and Jim Wood, Sergeant at Arms.

Item No. 399 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

The meeting recessed at 9:58 a.m. and reconvened at 10:02 a.m.

COMMUNICATIONS		Disposition:
390	Request of Kristen Pilgrim to address Council regarding impact of development planned for SE 50 th and Division (Communication)	PLACED ON FILE
391	Request of Perry N. Salzhauer to address Council regarding proposals and permits for development on SE 50th and Division (Communication)	PLACED ON FILE
392	Request of Kate Howser to address Council regarding proposals and permits for development on SE 50th and Division (Communication)	PLACED ON FILE
393	Request of Michael Van Kleeck to address Council regarding proposals and permits for development on SE 50th and Division (Communication)	PLACED ON FILE
394	Request of Brian Houle to address Council regarding impacts to residents with respect to development on SE 50th Ave (Communication)	PLACED ON FILE
TIMES CERTAIN		
395	TIME CERTAIN: 9:30 AM – Adopt the 2015 Sustainable City Government Principles and 2030 Environmental Performance Objectives (Resolution introduced by Mayor Hales) 35 minutes requested for items 395 and 396 (Y-5)	37121

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<p>396</p>	<p>Implement a comprehensive update to the City Green Building Policy to reflect advances in green building knowledge and practices (Resolution introduced by Mayor Hales) Motion to amend Appendix B. Bird-Friendly Building Design Checksheet to delete Project Location criteria in order to require that guidelines apply to City projects anywhere in the City: Moved by Saltzman and seconded by Fish. (Y-5) (Y-5)</p>	<p>37122 AS AMENDED</p>
<p>397</p>	<p>TIME CERTAIN: 10:15 AM – Accept the Quarterly Technology Oversight Committee Report from the Chief Administrative Officer (Report introduced by Mayor Hales) 30 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-5)</p>	<p>ACCEPTED</p>
<p>*398</p>	<p>TIME CERTAIN: 10:45 AM – Authorize City to place in Pioneer Courthouse Square from May 1, 2015 through March 31, 2016 a temporary freestanding sign with countdown clock, donated by TrackTown USA for the International Association of Athletics Federation World Indoor Championships Portland 2016 (Ordinance introduced by Commissioner Fritz; waive Title 33 and Title 32) 30 minutes requested (Y-5)</p>	<p>187096</p>
<p>CONSENT AGENDA – NO DISCUSSION</p>		
<p>Mayor Charlie Hales Office of Management and Finance</p>		
<p>*399</p>	<p>Amend contract with Travel Portland to revise performance measures used in annual reporting of effectiveness of tourism and convention promotion activities and programs (Ordinance; amend Contract No. 30002424) (Y-5)</p>	<p>187097</p>
<p>400</p>	<p>Authorize an Intergovernmental Agreement with Multnomah County to partner on a Digital Inclusion Strategic Plan (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 29, 2015 AT 9:30 AM</p>
<p>401</p>	<p>Authorize a grant to Elders in Action for Arts Education and access Income Tax outreach in an amount not to exceed \$8,750 (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 29, 2015 AT 9:30 AM</p>
<p>Office of Neighborhood Involvement</p>		
<p>*402</p>	<p>Authorize grant agreement of \$10,000 for East Portland Neighbors to administer the newsletter production of East Portland Neighborhood Association News (Ordinance) (Y-5)</p>	<p>187093</p>
<p>Commissioner Nick Fish Position No. 2 Water Bureau</p>		

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<p>403 Authorize an agreement with TriMet for the sub-lease of the co-location of radio equipment at Mt. Scott in the amount of \$52,337 (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 29, 2015 AT 9:30 AM</p>
<p>Commissioner Steve Novick Position No. 4 Bureau of Transportation</p>	
<p>*404 Authorize application to the Transportation Research Board for a grant in the amount of \$150,000 for research and evaluation of best practices for improving safety around streetcar tracks for bicycles (Ordinance) (Y-5)</p>	<p>187094</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Charlie Hales Bureau of Planning & Sustainability</p>	
<p>405 Require annual energy performance reporting for commercial buildings to promote reduction in local carbon emissions (Second Reading Agenda 387; add Code Chapter 17.104) (Y-5)</p>	<p>187095</p>
<p>Office of Management and Finance</p>	
<p>406 Accept bid of Emery & Sons Construction, Inc. for the Riverview Force Main Replacement for \$1,282,990 (Procurement Report - Bid No. 117631) Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-5)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p>407 Grant a franchise to Qwest Broadband Services, Inc. dba CenturyLink to operate a Cable System (Ordinance) 15 minutes requested</p>	<p>PASSED TO SECOND READING MAY 27, 2015 AT 9:30 AM</p>
<p>Commissioner Nick Fish Position No. 2 Water Bureau</p>	
<p>408 Authorize a contract with Analytical Services, Inc. not to exceed \$1,200,000 for Intake Compliance Monitoring and contract with Scientific Methods, Inc. not to exceed \$300,000 for Tributary Stream Monitoring in support of maintaining the Bull Run Treatment Variance Program (Ordinance) 15 minutes requested</p>	<p>PASSED TO SECOND READING APRIL 29, 2015 AT 9:30 AM</p>
<p>Commissioner Dan Saltzman Position No. 3</p>	

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409	Extend real property lease for Portland Children's Levy staff offices in the Spalding Building, 319 SW Washington St (Second Reading 384; amend Contract No. 30000628) (Y-5)	187098
Portland Housing Bureau		
*410	Approve the purchase of 10,000 square feet of land at NW Raleigh St and NW 14th Ave for approximately \$1,300,000 using proceeds of River District Urban Renewal Area Tax Increment Financing and approve the First Amendment to the Amended and Restated Agreement for Development between Hoyt Street Properties, LLC and the City (Ordinance) 10 minutes requested (Y-5)	187099

At 1:21 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22ND DAY OF APRIL, 2015** AT 2:00 P.M.

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

Commissioner Fritz arrived at 2:11 p.m. and Commissioner Saltzman arrived at 2:08 p.m. Mayor Hales left at 4:41 p.m.

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

The meeting recessed at 3:06 p.m. and reconvened at 3:09 p.m.

<p>411 TIME CERTAIN: 2:00 PM – Portland Watershed Report Cards (Report introduced by Commissioner Fish) 45 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-5)</p>	<p>Disposition: ACCEPTED</p>
<p>412 TIME CERTAIN: 3:00 PM – Amend Code to eliminate barriers to accessing administrative appeal processes, including establishing a minimum notice requirement and limiting fees charged to initiate an appeal (Ordinance introduced by Auditor Hull Caballero; add Code Chapter 3.130; amend Code Chapter 22.10) 90 minutes requested</p>	<p>CONTINUED TO MAY 20, 2015 AT 2:00 PM TIME CERTAIN</p>

At 4:53 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF APRIL, 2015 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees, Deputy City Attorney at 2:00 p.m.; Ian Leitheiser, Deputy City Attorney at 2:10 p.m.; and Mike Cohen, Sergeant at Arms.

<p>413 TIME CERTAIN: 2:00 PM – Appeal of Preserve the Pearl LLC against Design Commission’s decision to approve a new full-block mixed-use project in the Central City Plan District’s River sub-District at 1241 NW Johnson St (Previous Agenda 369; Hearing; LU 14-230014 DZM) 15 minutes requested</p> <p>Motion to tentatively deny the appeal and uphold Design Commission’s decision: Moved by Novick and seconded by Fish (Y-5)</p>	<p>Disposition:</p> <p>TENTATIVELY DENY APPEAL AND UPHOLD DESIGN COMMISSION’S DECISION; PREPARE FINDINGS FOR MAY 20, 2015 AT 10:40 AM TIME CERTAIN</p>
<p>414 TIME CERTAIN: 2:00 PM – Consider proposal of the City of Portland Water Bureau for Demolition Review and the Bureau of Development Services staff and Portland Historic Landmarks Commission recommendation of approval for the demolition of 1894 Reservoir #3, 1894 Reservoir #4 and the 1946 Weir Building, all contributing resources in the Washington Park Historic District at 2403 SW Jefferson St (Hearing introduced by Commissioner Fritz; LU 14-249689 DM) 3 hours requested</p>	<p>CONTINUED TO MAY 13, 2015 AT 2:00 PM TIME CERTAIN</p>

At 4:14 p.m., Council adjourned.

MARY HULL CABALLERO
Auditor of the City of Portland



By Susan Parsons
Acting Clerk of the Council



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.

APRIL 22, 2015 9:30 AM

Hales: Good morning, everyone, and welcome to the April 22nd meeting of the City Council. Would you please call the roll?

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

Hales: Good morning, everyone. We have communications items up front, then a couple of time certain items, and then the rest of our agenda. I have one request to pull something off the consent calendar and put it onto the regular calendar, and that's 399. Anything else? OK. With that, let's take the communication items, please.

Item 390.

Parsons: I understand she cannot make it today.

Hales: OK. I think there are several people signed up on the same topic, so we could take three at once, if that works for you -- or four at once, if you have four chairs.

Item 391.

Item 392.

Item 393.

Item 394.

Hales: Good morning.

Perry Salzhauer: Good morning, Council. My name is Perry Salzhauer. I'm first on the list, but we would like to request a change in order. Kate Howser would like to speak first.

Hales: Each of you gets three minutes, so however you want to divide it up.

Kate Howser: Great. Good morning. The other speakers and I are here on behalf of Livable West Tabor Neighborhoods, a coalition of residents impacted by four multi-family developments planned along SE 50th between Mill and Division.

These proposed developments will add more than 250 new units with extremely limited parking along a 0.3-mile stretch of road within one year. Of particular concern is a 45-foot tall, 83-unit building being planned on a commercial zoned lot at 1916 SE 50th. This lot is a zoning anomaly, part of a very small section of CG lots alongside R1-zoned single family homes on 50th and abutting R5-zoned homes on 51st and beyond. Developers are exploiting the zoning anomaly on our street in order to build according to the denser and taller commercial code while taking advantage of the quality of life and community that the surrounding residential areas provides.

The pace and volume of these changes generated a lot of concern in our neighborhood. I live across the street from the building I mentioned, and this proposed development is so out of scale with the neighborhood that it will result in a drastic loss of solar access, privacy, views, and property values not just for people like me who live close to it, but also for people several blocks away. It's just that big. Even residents beyond that - as well as visitors and commuters -- will be negatively affected by the increased traffic, parking, and noise, not to mention the safety concerns due to small neighborhood streets being used as major thoroughfares.

Over the last four months, our group brought these concerns to the developers, members of BPS and BDS, and other elected officials who have either ignored us, directed us to other departments, or given us meetings for which they were unprepared and which

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they said their hands were tied or touted the comp plan as the answer to all of our problems. But of course, these developments are going to impact our neighborhood before that plan goes into effect.

Today, we see no indication of coordinated oversight or management of the combined impact these four developments will have in the neighborhood, which brings us here today. We recognize that other neighborhoods are also experiencing rapid development, and it is directly affecting Portland citizens like me. We hope our testimony today will encourage you to examine, reduce, and slow the scale and rate of these types of developments until these issues can be fully considered with input from all the stakeholders. Thank you.

Hales: Good morning.

Brian Houle: Thank you, Council. My name is Brian Houle. My partner and I live in the Richmond neighborhood at 1931 SE 50th. A four-story, 45-foot tall, 83-unit apartment complex is being proposed for the construction at 1916 SE 50th Avenue which is directly across from our home. If the proposal is allowed to be built, there will be permanent and negative impacts to the quality of life for many property owners surrounding this development.

50th Avenue is characterized by features which make it different from other areas where commercial development has been approved. These features must be taken into account in the permitting process for commercial development. This corridor is primarily zoned R1, contains a very small commercial spot zone of four properties, and is surrounded entirely by R5 neighborhoods. 50th Avenue has a 35 mile per hour speed limit, and the City's transportation plan identifies 50th Avenue as a transit priority street linking eastside neighborhoods with downtown.

The current rate of development along this street will consume all remaining parking spaces as residents, guests, and family members of these new apartments attempt to parallel park on 50th Avenue. Traffic flow already backs up during the rush hour commutes and will quickly resemble the gridlock that is now routine on upper Hawthorne. Motorists looking for a parking space will be faced with five dead end streets between Lincoln and Hawthorne that prevent them from gaining access to 51st Avenue, thereby creating an endless flow of frustrated motorists.

If motorists attempt to turn to the west, they will find themselves on 49th Avenue, which is only 19 feet wide. This narrow and intimate street currently provides one row of parked vehicles for homeowners and room for only one vehicle to make passage. Motorists will attempt to flow around this gridlock by using Harrison and Lincoln. However, Harrison Street only allows for one vehicle to pass at a time, and Lincoln Street is a major commuter street for bicyclists. Does any of this sound safe to you? Especially in a region that has a high number of families with children?

The concerns of our group would be alleviated by reducing the scale of this proposal to 40 units, and 30 feet in height. In addition, I -- along with many other homeowners -- are about to lose our scenic view of Mt. Tabor, which is a defining neighborhood landmark. Fourteen weeks ago, I started a dialogue with David Mullens, who was a project manager for this project, inviting him to my property to see the view that will be destroyed by this building. He agreed to pay me a visit, but I still haven't heard from him.

With all the public input we provided on this project, we just learned that they have chosen to reduce the size of the project from 84 units to 83 units. The City, along with neighborhood residents and developers, have an opportunity to work together now to voluntarily adopt standards known to promote sustainable and livability. As voting and tax-

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paying citizens of Portland, we strongly advocate proactive leadership as opposed to an attitude or language suggesting nothing else can be done.

Michael Van Kleeck: Thank you. Clerk, does Council have the photos I gave to you? You should each have a photo right here of a development taking place at 50th and Lincoln.

Parsons: Sir, when you start, I'll distribute these.

Van Kleeck: Thank you very much. Thank you. Good morning, everybody, my name is Michael Van Kleeck. I don't believe I'm a stranger to any of you. I do recognize that I am speaking to the first Council in Portland history that is not being held accountable by a daily newspaper.

Council, I'm here out of love of this city. I am here out of love for SE 50th between Hawthorne and Division -- which I believe is a sacred street -- at the base of Mt Tabor, at the base of one of the treasures of the city, and it is a street that is endangered by decisions being made by you and your staff. By the Bureau of Development Services, by Planning -- by you, the Mayor, by the way you've allocated the bureaus. You are attacking our streets, you are attacking the base of Mt. Tabor, and a child is going to end up dead because you have approved this development that is going to put a driveway servicing 18 garages within 30 feet of the 50th and Lincoln intersection, an intersection where bikers are already being killed, where ambulances are reporting to every day. Each of you -- either through ignorance or through outright approval -- has approved this. You have vetted this driveway 30 feet from this intersection. A driver is going to come out making a left onto Lincoln while a kid comes down the hill and is going to get hit. So, make sure you add budget for a white bike to put on the corner in addition to whatever else you are adding to the bureau for this.

Council, I'm asking you to immediately enact a moratorium on all construction on SE 50th between Hawthorne and Division. This is allowed by the state land use because the decisions have been made there right now are endangering the community and are going to endanger children. You can vote on that moratorium today and halt all construction on SE 50th today.

Portland is selling the dream of livability, a faded mirage of the '90s, when Portland was the world's best planned city. That's why I moved here. At Stanford, we learned Portland was the capitol of city planning. Then Randy Leonard laid off 75% of the Planning department, the plan was allowed to expire, and you all decided to let the developers have a gold rush on our city. You're paying for that dream that you're selling by posing a nightmare of danger and destruction on the residents of Portland that have made this city the Eden it is today.

You have allowed developers to propose to build 300 units on SE 50th. This isn't Caesar Chavez, this isn't Grand, this isn't the Pearl District. This is a small, residential connector street. It is two lanes wide, and you have allowed 300 units to go in on this street. That's more than live within a six-block radius. This is at the base of Mt. Tabor.

Mt. Tabor is the spiritual heart of East Portland. In 1966, the citizens of SE 50th rallied and stopped your predecessor from building a freeway. And today, I'm here to tell you that we are rallying again. The base of Mt. Tabor is rallying, and we are going to protect 50th. We ask you today to take action, impose a moratorium immediately on all construction on SE 50th, convene a coalition of neighbors, developers, and planners to lay out a plan to make SE 50th the treasure of inner Southeast Portland, not a slum. Thank you.

Salzhauer: Ladies and gentlemen of the Portland City Council, my name is Perry Salzhauer. I live at 1904 SE 49th in the Richmond neighborhood. I'm an attorney and am part of the thriving tech start-up industry in this town.

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It's obvious to all that Portland is in the midst of an unprecedented urbanization of a character that the city and the state have not seen since before the enactment of the Land Conservation and Development Act in 1973. As we all know, that piece of legislation has served as a benchmark for this nation and the cornerstone of development policy in Oregon since the enactment.

The act was intended to strike a balance between the interests and the forces of development and urbanization insofar as they represent personal and private economic rights and the interest in the public of maintaining values that do not lend themselves to quantification or monetization. Unfortunately, that balance and the development process in the city of Portland has been stretched by volume to its breakage.

As we all know, the city of Portland is nearing its end of the shelf life for its comprehensive plan. The comprehensive plan lies at the heart of the LCDA's balance of the competing interests and goals that weigh upon land use decisions. The comp plan is in many ways intended to serve as a substitute for the need to perform a cumulative assessment in connection with the permitting of every development decision within the plan's purview. In effect, the plan is the way in which the City must link permitting decisions in the context of the cumulative impacts of development decisions upon the 19 statewide planning goals that now fall in the legacy of the LCDA, including, specifically, the impacts upon the environment, hydrology, sustainability, emergency access, and historical value. The system is established to ensure that the needs of the community are not just heard but incorporated into the comprehensive plans, and those goals need to be respected during the permitting and planning process, which in large part is why citizen involvement is state planning goal number one.

The City of Portland, its Commissioners, its managers, and its employees having been working very hard to engage the citizens of Portland as it works to develop the new and forthcoming Portland comp plan that will guide the growth of the city for the next 20 years. That plan goes into effect next year, and we've been encouraged to provide our comments to the City with respect to it. However, the enforcement reality is today, the City is failing to preserve the values that the LCDA protects on behalf of the beneficiaries of the forthcoming comp plan by allowing unprecedented land and money grab for developers seeking to sneak their permit applications in based on the outdated assessments embodied in the comp plan, a plan that is over 20 years old.

Moreover, the citizen engagement process that is part and parcel of the development approval protocols and is broken and ineffective. We have made every attempt to engage the available City processes, bring the City and the developers in line with the real impacts of the proposed development on SE 50th. Development's plan without a single LEED or other sustainability elements including in its proposal.

This is a neighborhood with a wealth of hard and soft infrastructure. As the developers seek to take advantage of archaic nuances and is so-called grandfathered allowable land uses -- [beeping] -- may I have a few minutes? Grandfather allowable land uses slip their plan past the public and into action in the final interstitial months between the old comprehensive plan, a plan which embodies community values of the 1980s, and the new comprehensive plan. They are actively diminishing the values that the citizens and the City of Portland seek to protect in the new plan.

The grandfathered land use and parcel joining machinations presently being used by developers are based on stale 1980s analysis and information that is no longer accurate. The stale information includes information about driving patterns, vehicle ownership, and most importantly, safety and community issues. In essence, they are trying to shift the burdens and impacts of their development upon the cities of Portland based upon the residents of Portland's view of these issues over 20 years ago before we, the

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2015 residents of Portland, collectively and as a city have had the opportunity to determine how those burdens and impacts should fairly be shared among all stakeholders, including the long-term residents of every Portland neighborhood.

Before I end, I want to be clear that I am not here to oppose change or growth or development within the city. It is very important that the city grow to maintain the thriving economy. I'm not here because I oppose affordable housing in our wonderful neighborhood or because I want to maintain the exclusivity over it in some form. Rather, I am here because I categorically, unequivocally oppose development that occurs in a siloed environment without real oversight and in the absence of a process that allows due consideration to be taken of the real cumulative impacts to the community of the series of individually made yet interrelated development decisions. There is no such process at work here in Portland at this moment in time, and as a result, the development is proceeding in an undemocratic and unsustainable manner which will harm this city for the entire life-span of the new comp plan while providing little benefit other than improving the financial position of a few closely-held development corporations.

Accordingly, I join my neighbors in urging the City Council to place a citywide moratorium on all new development three stories or taller within any neighborhood or area predominantly zoned R1 or which has historically been zoned and designated for a primarily single unit residential dwellings until the new comprehensive plan becomes effective in 2016. Thank you for your time, Mayor.

Hales: Thank you, I appreciate your presentation. [applause] Do you know when this zoning was applied to this land?

Van Kleeck: It's in the last plan. It was grandfathered in. What happened was --

Hales: No, I mean, in what year was --

Van Kleeck: 1982.

Hales: It's been zoned R1, is that what it is?

Van Kleeck: It's an isolated commercial parcel in the heart of a residential zone -- basically a residentially zoned area. A church was built on a parcel zoned R1, and that was a grandfathered non-conforming use. That's why you see the developers buying up churches all over town -- because they were grandfathered in, and with R1, one unit per 1000 square feet. Developers buying the church, knocking the church down, building 18 three-story tall Beaverton-style townhouses.

The other thing is that there are isolated commercial parcels. There was a one-story machete factory on 50th -- a little flat building -- David Sackhoff of Beaverton came in, bought that, and knocked that machete factory down, and because it's commercially zoned, there is no restriction on what he can build residentially short of the size of the building.

Hales: It's zoned CG did you say?

Van Kleeck: Yes. A small machete factory.

Houle: And my understanding is that particular parcel, which is the subject of the Sackhoff development, was grandfathered in the 1960s.

Van Kleeck: I believe that's the case.

Hales: Yeah, I know that did happen -- if there was an existing commercial use, the Council then in some cases gave them the zoning that made them legal for what they were doing then.

*******:** Right.

Van Kleeck: And that's Sackhoff has identified all these parcels all over town. Remember the little hut at 2626 Ankeny? He bought that hut, leveled it, and put in what is now the tallest building in that area, the 80-unit residential development where there was this little hut on 2626 Ankeny.

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Howser: May I add that the development in question, the Sackhoff development -- he's also bought the adjacent home --single family home -- and that's currently in a demolition stay that we had enacted. But his plan is to demolish the home and to build the large multi-family dwelling incorporating both the lots. So, it is CG and R1.

Van Kleeck: Interestingly, your Bureau of Transportation approved his driveway on 50th where a driveway for any unit multifamily development in that area should be, but the same Bureau of Transportation, a block away on an 18-unit development, approved the driveway across Lincoln, one of the major east-west bike thoroughfares in this town, less than 30 feet from the intersection of 50th and Lincoln. And their reasoning was, "oh, we want the entry on auxiliary streets." Well, why did you approve the driveway for Sackhoff's much larger development on 50th?

And what's happening -- we've sent all of you a number emails, have hardly gotten a response. We met with a member of Amanda's staff. And what's happening is every time we meet with somebody, BDS accuses Planning of not having the right zoning in place, Planning accuses BDS of signing off on everything, The Bureau of Transportation accuses us of being obstructionists, and they says, "if it's OK with BDS and Planning, let's do it." Mayor, you have the power to take back those bureaus and set in place a tone of a city that listens to its citizens and residents and preserves the livability of Portland. We all moved here for the neighborhoods. This is a beautiful city. We love it.

Howser: Any more questions?

Novick: I'd like to make a specific response and a general comment. One is that -- and I believe PBOT has explained this to people in the neighborhood -- the developer could have -- on the unit you're taking about, the project you're talking about, the developer could have as a right put the driveway on either 50th or Lincoln. PBOT actually preferred putting it on Lincoln because Lincoln is a local street, 50th is a connector street with higher speeds and higher traffic volumes, and we tend to encourage new access points on lower volume, and lower speed streets because they're safer to pull in and out of.

*****: Bikeway.

Novick: Yes, we understand that it's a bikeway. We've had a conversation about this with the Bicycle Transportation Alliance, and although they have concerns about it, they understand the reasoning.

Our standards require that the driveway be 25 feet away from the signalized intersection, and this meets that standard. So, they might have a conversation about whether it should be 35 feet or something, but right now, that is the standard. And no traffic studies were done because there's no mitigation measures PBOT can require because this is not a land use review. So, that's my specific comment.

I also have a more general comment, which is that our planet as we know it is dying. Over the coming decades, we can expect that 20% to 50% of the species on earth will go away, and a large parts of the planet, including the United States, will become uninhabitable. And this is actually one of the few places in the country that we can expect will survive. So, more and more people are going to flee here as climate refugees.

And unfortunately, one of the ways to reduce energy use is for more people to live closer together. Because if you've got a bunch of people living close together, then you'll have a grocery store spring up there that people can walk to instead of when people are spread out, then you wind up most people having to drive. So, I understand that everybody says, "I don't object to the development, I agree that we need to have a planning system that avoids sprawl," but everybody objects to the development next door to them. And of course we need to have a rational process, and every development shouldn't be approved. But if we are to survive, then some people are going to have to lose their views, and some people are going to have to put up with development next to them that they don't like.

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Van Kleeck: Your standards will result in a child being killed -- [speaking simultaneously]

Salzhauer: May I respond -- [speaking simultaneously]

Van Kleeck: Are you going to pay for that white bike out of your pocket, Steve -- [speaking simultaneously]

Howser: Let's let -- [speaking simultaneously]

Hales: One other suggestion -- and that is you said you've had some discussions between your group and the developers involved -- there's more than one. The neighborhood association's role -- is South Tabor involved?

Van Kleeck: No, the neighbor -- 50th is a border zone between the Mt. Tabor neighborhood and the Richmond neighborhood. The Mt. Tabor neighborhood would like to be involved, but they are spending their volunteer time trying to get lawyers ready to fight Commissioner Fish, who is continuing to go against the will of the voters trying to shut down the reservoirs on Tabor. 50th is not represented by an association.

Salzhauer: May I respond to Commissioner Novick? Commissioner Novick, I have an LL.M in environmental and natural resources law, and I am keenly aware of all of the issues that you just raised, which is why I specifically pointed out that these developments are proceeding without any LEED or sustainability certification. To the extent that increasing urbanization is going to be a reality in the next 50 years, I completely agree, and I am not opposed to the development in my neighborhood.

The reason we're calling for a moratorium is because we need to slow down. We are in the process of creating a new plan where we can all provide our input and guide a sustainable development for the next 20 years. What I'm asking for is for us to put the brakes on some of these less sophisticated, less sustainable developments in residential neighborhoods so that input can be received and we can continue to be a shining gem of planning throughout the country.

Hales: Alright. I appreciate you coming today. Obviously, there's a lot of issues wrapped up together here. If we don't already have your contact info in my office, would you give it to the fella with the dark glasses in the frames, Dana Haynes -- or Rachael, the young woman who just walked in in the green -- so that we know how to get a hold of you and follow up with you? Because we have to move onto other business this morning but obviously, you've done a good job of alerting everyone to this issue.

Van Kleeck: We're not opposed to development. We love Mt. Tabor, we love Southeast Portland, and we want the opportunity to share it with our children, to bring our children into this neighborhood, let them grow up, let more children come into this neighborhood, bring in people of color into our neighborhood, diversify our neighborhood, and make sure it's safe and happy and healthy. These developments -- they increase density but they do not increase livability, they are the foundation of a slum. We need to get the community involved and build something that will make this a golden opportunity at the base of Mt. Tabor where the dragon can rise.

Hales: Thank you very much.

Howser: Thanks for your time.

Hales: OK, we're going to move on to the regular agenda, but again, thanks all of you for being here this morning. We have the consent calendar to deal with, so let's take care of that first and then we'll continue on to the time certain. I'm sorry, what's --

*****: Good morning --

Hales: No, ma'am -- I'm not sure what's going on, but this doesn't happen here. If you want to sign up for time on the calendar to speak to the Council like these citizens just did, you get to do that. But no one gets to come in here on any cause whatsoever and just --

*****: Woo-hoo! Yeah!

Hales: No, sorry, we're not going to do it -- [shouting] -- OK, we're adjourned.

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At 9:58 a.m., Council recessed.

At 10:02 a.m., Council reconvened.

Hales: We'll resume our business and take up the consent calendar minus item 399. Roll call on the consent calendar, please.

Roll on consent agenda.

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

Hales: Let's move to time certain, item 395.

Item 395.

Hales: Good morning, and welcome. Susan Anderson and Michael Armstrong from the Bureau of Planning and Sustainability are here to make this presentation. This is a set of principles for how we practice what we hope to see accomplished in our community and in our own buildings and in our own design and facilities and public services, and it's part of our overall strategy for being a green, sustainable city, and it's an important part, and it's gotten some serious traction over the years. And now, this is an update that could work, so thank you both for being here this morning. Turn it over to you, now, for the presentation.

Susan Anderson, Director, Bureau of Planning and Sustainability: Mayor, we had talked earlier about having all three --

Hales: Oh, yes, let's do all three together, so if you would read 396 and 405.

Item 396.

Item 405.

Susan Anderson, Director, Bureau of Planning and Sustainability: Thank you. Good morning, Mayor and Commissioners. Susan Anderson, Director of the Bureau of Planning and Sustainability, and with me here is Michael Armstrong; also his team Andria Jacob, Alisa Kane, and Pam Neal, who all worked on the three topics we're going to talk about today.

As the Mayor indicated, we have three items. The first is the ordinance that we discussed last week related to energy efficiency benchmarking for commercial buildings throughout the city that are over 20,000 square feet. The second item is a resolution that renews the City's commitment to what we called the Sustainable City Principles. It also establishes measurable performance objectives for City operations. And the third item is a resolution to update the green building policy for City-owned facilities. Last week, you'll remember you held a hearing on the energy efficiency benchmarking for commercial buildings. We'll review the two other resolutions, and then we'll circle back and have an opportunity for questions on all three topics.

So, just over 20 years ago, City Council adopted the Sustainable City Principles along with about a dozen other cities throughout the United States. And at that time, I have to admit, I had just started working here and most people didn't know what I was talking about.

Things have changed since then, and from my perspective, the goal of having the principles is to have first of all, the City lead by example for the rest of the community. Second, to confirm that the City should really be making decisions that look and reflect upon long-term thinking; and third, have the City better understand and balance economic, environmental, personal health, and community issues, and really understand that these things are interconnected and their outcomes are interconnected.

Over the years, all of the bureaus have been very creative. They have also been very practical in how they looked at the principles and how they have implemented them. For example, over the past 20 years, we've saved more than \$50 million on our electricity and natural gas bills, with more than \$6 million saved just last year alone. City operations

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will soon be powered by electricity from 100% renewable energy sources. More than 40% of City-controlled impervious surfaces now use sustainable stormwater management techniques. And due to Commissioner Saltzman's vision, now I think it's been 15 years ago, we now have 11 LEED-certified buildings among our City facilities.

The new principles are on the handout that you have here. Also, we have done posters that we'll be able to have around in City workplaces for people to look at. They include such things as the obvious sort of balancing environmental quality, economic prosperity, and social equity; and more specifics around purchasing renewable energy, protecting habitat, encouraging innovation and cross-bureau collaboration, growing a diverse workforce, and then measuring and reporting, which is very important.

In addition to the principles, the second poster that you have there -- the one that looks like this -- or maybe it's on the back of the other. So, this is going -- this is our attempt to try to measure all the work that we're doing and to establish performance objectives to help us to track progress. So, staff from across the bureaus work together to evaluate and streamline existing policies and goals that are in their own strategic plans. It's a simple framework so we can measure and track what hopefully will be a success. It includes 11 different objectives in nine areas. The targets are for 2030 -- so, 15 years out - - and we'll report back every year to describe our progress in reaching those goals.

This is something that every great company in the United States is now doing, cities around the United States and throughout the world are doing, and I think it's something that will allow us to be more transparent to the public in how we are actually walking our talk in terms of the sustainability. And remember, this is for City government operations only, it's not like the Climate Action Plan where we're looking at community-wide, this is really looking at how we follow through in our own operations.

I have four quick slides just to illustrate a few goals and to talk about how it is that we are doing on them. The first slide is related to carbon emissions. The goal is by 2030 to reduce carbon emissions from City operations by more than half. So, we use fiscal year 2006-2007 as our base year. You can see that we're heading in the right direction, we've cut emissions by 17% since 2006, but as you can see, the yellow line at the bottom there, that's at the 50% mark. We have quite a way to go in just 15 years, but we do definitely think that this is possible.

The second slide relates to energy efficiency. By 2030, our goal is to reduce energy use 2% per year from fiscal year 06-07. The chart shows that we've been doing a pretty good job at this. The yellow line represents a 2% per year reduction, and we're generally heading that way. BPS continues to provide direct assistance to the bureaus in partnership to help them to cut energy use, and also working with the utilities and the Energy Trust of Oregon and others.

Dave Tooze has been the City's energy efficiency expert for 25 years now. Dave, can you stand up and wave?

Hales: There he is.

Anderson: So Dave is going to retire, which is a scary thing for the City. Dave has done a remarkable job over these 25 years. It has not been single handedly, and he will be the first one -- the other partners will be the first ones to say that Dave leads, he pushes, he gets the technical work done, he builds the partnerships, he finds the money to get the projects done, and then he seems to disappear. And the other bureaus come out and say, "look at the great work we did!" And they are very, very appreciative of Dave and it's been a great partnership, so I just wanted to recognize what great partner Dave has been with all of your bureaus.

The third slide focuses on renewable energy. The City's goal is to generate or to purchase 100% of all electricity for City operations from renewable sources. That means

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that we can either generate power with, for example, onsite solar, or we can purchase green power. We expect by the end of this year that all of the bureaus will be served by 100% green power.

Finally, I want to show a quick slide on waste recovery. Our goal is by 2030 to recover 90% of all of our waste from City operations. Currently, the recycling rate citywide for all residents and for all businesses is about 70%. City government kind of mirrors that rate also at 70%. We know technically we can get to at least 90%, and so we will be working very closely with all your bureaus to increase the recycling and composting and such.

You can review the rest of the goals that are on the posters here. We'll have these available and around for everyone to look at and understanding. Again, we'll come back every year and have this be a very transparent process and be able to report on how we're doing on all of these different objectives. I'll hand it over to Michael now to talk about the green building policy and the update.

Hales: Maybe before you do that, there might be some questions about this piece here.

Fish: First of all, I love the materials. Do you do this in-house?

Anderson: Yep.

Fish: Who designs your stuff?

Anderson: One of our guys. [laughs] And one of the women there. There's two people.

Fish: I may have to borrow their services.

Anderson: Yes, you can do that.

Fish: I have a couple questions and comments. I'm intrigued under "renewable energy" that you list our goal is to generate or to purchase. I get the purchase side, but I'm very intrigued around generation, particularly because I think that we have a huge untapped potential around hydropower. So, let's park that as a concept and talk about it. But we do have this great natural resource which potentially could generate more electricity, and I'd like to get your thoughts on that.

The water table talks about static or slightly reduced water consumption, and at some point, I think I would welcome your thoughts more generally on the tension between the cost of service and our conservation programs.

Anderson: Mm-hmm.

Fish: Because we are a little schizophrenic. We are obliged legally and probably ethically to encourage education. The net effect of that is that it drives everyone's costs up. So, how do we reconcile that? What's a sustainable use of an abundant resource that doesn't have the perverse effect of increasing the cost to our consumer by doing what we think is the right thing?

Anderson: And I'd love to have that conversation with you. It's something that the electric utilities dealt with really more than a decade ago, kind of decoupling so there's not this sort of internal sort of conflict that's constant that allows you to recover the rates you need to run the system but it doesn't penalize the people who do conserve because you can -- you have control of the rates, but people have control over their own bills by using the amount of efficiency. So, we can talk about that.

Fish: I have a feeling it will be one of the first assignments of this new oversight body, and I have a feeling you have a lot to say about it and have us think about it.

Anderson: Sure.

Fish: Because we do want to encourage certain behavior without creating perverse disincentives.

Anderson: Yep.

Fish: On the natural systems piece, I applaud the ambitiousness of your goal of lifting the quality of how we manage certain natural areas. I am reminded, however, that this raises a

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very big question, because Parks and BES are constantly struggling to figure out who manages -- who owns and operates and who manages natural areas. And the place where it breaks down a bit is cost. And right now, we actually don't have a sustainable funding plan to manage the natural areas. So, to boost to the extent that you are suggesting from 65 to 80% means we're going to have to find a durable funding source to maintain our natural areas, and right now, that's eluded us. So, I'll be interested in your thoughts on that. And it will have a -- it's obviously a budget implication, and we have not been as effective in natural areas as we have with our new parks in budgeting O&M, so we're going to have to think about that.

And finally, I'm intrigued by your stormwater stuff. And since you're talking about City-controlled impervious surfaces, what percentage of that do you see as the opportunity around green roofs and green infrastructure, or whatever is on top of the building versus next to a building?

Michael Armstrong, Bureau of Planning and Sustainability: We have someone from BES here who was going to speak in a few minutes.

Fish: About that?

Armstrong: She might want to address that now that she knows. [laughter]

Saltzman: I'm sure she will.

Fish: I know how we define stormwater generally, but when you're talking about City-controlled impervious surfaces, what are you specifically referring to?

Armstrong: I think that I would want -- so Jane Bacchieri from BES is here, and I want to make sure that she is correctly describing what this represents.

Fish: I want to make sure that we're clear about the different categories of -- and what the City is directly responsible for and what happens to development and other terms.

Armstrong: Right. It's a good illustration of why we do try to work closely with the bureaus on this, because there's some pretty specialized expertise that we want to make sure that we're getting it right.

Fish: Thank you.

Hales: More questions? I've got some too, but go ahead, Commissioner Fritz

Fritz: I have a question about the goal for a 90% waste recovery in the City. In my office, the waste has considerably gone up since we stopped composting and we can only put food scraps into the compost rather than all the things that I can put in at home. Why do we do that? What has been the success? And can we go back to the other way of doing it? [laughter]

Anderson: I'm with you, but I'll let Michael explain.

Armstrong: So, the reason that change was made was because the materials that come out of commercial buildings -- grocery stores, you know, the commercial side of organic waste -- is now going to an anaerobic digestive facility where it's digested and you get biogas off that, which is used to generate electricity, in addition to the compost product that comes from the residuals. And so the change was that waste is no longer being composted, and instead it's going to an anaerobic digester. And the analysis is that's a better comprehensive use of the resource. It comes with a downside, so, not as many materials can go through that process. And so over time, we either need to get more refined so we're still capturing the compostable parts of the waste stream and get those where they can be composted, and it's just the mechanics of that are there's one more additional separation. And so, I think the other opportunity is to go down to the waste reduction path and look for, can we be getting rid of the, you know, dry your hands on a towel, and go to air dryers, for example, which we have in some facilities.

Fritz: Those have their own problems with noise and other -- for old people's skin, they're really not very good. So, it was always my practice to take the paper towels and put them

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in the composting. And my office staff and I have various little food waste because we eat it all. So, we have this ginormous bin that's got a biodegradable bag which is made with probably more energy than we are putting the scraps in for three tea bags per day to go to the facility, so I would really appreciate it if we could look at in the meantime -- you know, we could use the small kitchen garbage pail. It would be more than enough for the food waste that we have in my office, whereas the previous compost bin was usually half full most days because of things like pizza boxes. I think now some of us are taking our pizza boxes home, and it would be much more convenient to do what we do at home here at the office.

Anderson: And it's important to note that control over where that compost goes is at the Metro regional level, and not it's something that the City does. So, we have no control over that.

Hales: Influence, perhaps.

Fritz: They changed?

Anderson: They changed the rules.

Armstrong: They changed where it's going.

Anderson: And we have a lot of comments on that. But it's something that will come around again, and we can look at again.

Fritz: Let me know if I need to lobby at Metro.

Saltzman: Where is the anaerobic digester located?

Armstrong: It's at the south end of the Willamette Valley in Eugene.

Saltzman: I agree absolutely with Commissioner Fritz's comments. I think the energy that goes into the biodegradable bag that has like one banana peel in it per day -- somebody should recalculate that.

Armstrong: In office settings, your point is well taken. You're not alone.

Hales: More work to do. I mean, we're doing really well at the residential level in terms of the efficiency of the system and the performance in terms of the recycling. I actually focused on the same issue that Commissioner Fish did, which is renewable generation, and loved this photo -- I know he probably did, too -- of the solar array out at Airport Way. It seems to me that if we're approaching that goal of 100% green power, that's wonderful, let's celebrate that, but we obviously have the potential to make that a negative number, i.e., we're generating more power than we're using, right? So, given the fall in the price of solar panels and that acreage of roofs and other spaces that we have, including on top of this building, that are not yet equipped with solar panels, what do you see as our potential for doubling down or setting a new goal of not just 100% green power but maybe X kilowatts of net generation coming off the City's facilities instead of being consumed?

Armstrong: Yeah, so you're exactly right, we have significant opportunities to add solar going forward and there are three, maybe four large projects that are currently in development. Dave Tooze, who Susan mentioned, has been working with bureaus on that and bureaus are actively going down that path. We currently generate a certain amount ourselves and we want to keep adding to that. So for example, new solar or the hydropower. We currently buy renewable power from other facilities. And so I think that initially, as we're generating additional increments, we'll buy less. I think the goal to be able to get to 100% onsite -- that would be fantastic to achieve. We don't yet have the sites identified that will get us there. So I think that having that as a goal really gives us something to focus on.

Hales: You've had a lot of success with the Southwest Community Center putting panels on the roofs of buildings that are usable structurally in location in other ways. It seems to me that we still have a huge amount of potential, parking garages, you know, this building, that building after we fix it up.

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Armstrong: That's the sequence. Exactly, we absolutely agree.

Hales: Good. And yeah, the hydropower piece. Given the extreme that we have conducted with Lucent Energy and putting generators in City pipelines, that seems to me another opportunity. Other questions? OK, now we'll let you move on.

Armstrong: OK. So, the second piece is to update the City's green building policy for our own facilities. This would be the third update to the policy since it was first approved in 2001. The point of this is to make sure that we're keeping up with best practices in the green building industry and also to learn from the experience of bureaus as they implemented the policy. We want to be responsive to the challenges that they encounter.

Susan referenced earlier that we've seen quite a lot of success from the earlier versions of the policy. The City now owns 11 LEED-certified registered buildings. A couple examples -- the emergency communication center in East Portland, the Charles Jordan Community Center in North Portland, and across the whole portfolio of City buildings, we now have -- just talking about solar -- so 600 kilowatts of solar. It's quite significant amount. Lots of opportunity to do more.

Over the course of the policy, we've added 60,000 square feet of ecoroofs to City buildings, and obviously, all kinds of tenant improvements. And some of the indoor changes that actually really help employee productivity improve, air quality, those kinds of benefits.

Saltzman: That first picture you showed was a brand new Fire Station 21.

Armstrong: And that's Fire Station 21, exactly.

Saltzman: LEED Gold.

Armstrong: LEED Gold --

Saltzman: Thanks to Connie -- [indistinguishable] [speaking simultaneously]

Armstrong: That's exactly right. Credit where it's due.

So, as with the principles for this work, BPS worked with a wide set of staff from across bureaus -- so Environmental Services, OMF Facilities, Procurement, Parks and Recreation, Water Bureau, Bureau of Transportation. And it's also significant that the Portland Development Commission and Housing Bureau -- each which have their own significant opportunities to influence what gets built -- they participated in this process and are working on their own policies. I believe the new PDC update -- because they too have had a policy for more than 10 years now -- I believe they will be considering their updated policy next month.

Fish: Michael, how do we -- when the Housing Bureau is the primary funder for a building that's LEED Gold or LEED Platinum, how is that reflected on the inventory? Do we credit it on our list, or do we treat it as arm's length?

Armstrong: We identify it on a separate list. The projects that the City owns and manages -- that's the list of 11. We also have been tracking projections that have received City funding or support in one way or another, and so we have a memo that outlines how that has played out over the last handful of years. Be happy to make sure that you have that.

In the new update then, a couple of the key provisions that have been changed or added. We've got a more refined distinction between large projects and smaller ones, so there's a little more flexible with smaller projects. And one of the things we've learned over the years is that the City builds relatively few kind of standard kinds of buildings. Most of the things that we build have very specific functions, whether it's the emergency communication center, a pump station, a facility in the middle of the park, an industrial plant. And so the one-size-fits-all approach just doesn't work for the City. So, we're adding some alternative ways of achieving green and being sure of it without making everything be LEED-certified.

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A couple of the other provisions that are in the new update -- one is around bird-friendly design guidelines. And I think we may have a little more conversation about this, so this would bring those in and reference them. We also are referencing salmon-safe certification, and this is again a good example of the bureaus learning from one another over time. The Parks Bureau has certified all of its parks for a number of years already, and we're right now working with Environmental Services, Water, and Transportation to have their operations become salmon-safe certified. This policy proposes that we continue on that path and extend that to all City operational bureaus.

Saltzman: I do have an amendment I will offer on the bird-friendly design guidelines, but we'll get to that. I was curious, what does it mean "parking allowances for staff and visitors"?

Armstrong: So, one of the pieces that came out of the bureau process around this was to address some of the site considerations rather than just the performance of the building itself, and so this is where we get the salmon-safe certification piece. We also had a conversation about parking. Should the green building policy recognize that the transportation to and from the building is a significant part of the building's environmental footprint? And so, the proposal that bureaus thought was workable was to have the -- City buildings would include no more than the minimum parking required by code, unless the building has specific functions that make that not practical, in which case the Commissioner-in-Charge would need to have a look at it and affirm, "yeah, I get why we need more parking in this case than we usually do."

Saltzman: OK.

Armstrong: So it's trying to bring in the fuller picture of the performance of the building.

Saltzman: OK, thanks.

Armstrong: The one other piece in here that's new is around space allocation and space planning. And the intent here is to get a little more consistent in how we design our internal spaces so that we can essentially reuse furniture and buy in more routine quantities. So, we're getting more efficient across the City operations with the perennial challenge of staying coordinated of staying coordinated across our many different bureaus. So this at least provides guidelines for consistency.

Going forward, the Bureau of Planning and Sustainability sees ourselves continuing to have a role in providing training working with Procurement Services around contracting, with the Environmental Services around the ecoroof and stormwater management components, working with Facilities around internal City operations. And the intent here is that we're trying to construct and maintain buildings that efficiently manage energy, water, waste, stormwater while -- and this is really the important part -- improving the health, comfort, and productivity of the people in those buildings.

And there are certainly are cost questions to be asked. What does this cost the City and what's the return on investment? When we look at the big picture, it costs a little more up front but we end up with a lot less sick days, for example -- better productivity. I think the return to the City is pretty compelling. I think with that, we have a number of bureau directors here who would like to testify. We're also happy to answer questions at this stage procedurally.

Hales: You have an amendment you want to suggest?

Saltzman: So, I have an amendment to the bird-friendly design project manager checklist, which I really appreciate, and reflects this Council's action two or three years ago to address the tremendous loss of birds that are associated with manmade structures. So, we adopted some guidelines, and this is a project manager checklist. But the checklist as proposed limits the applicability of the bird-friendly design guidelines to certain areas like conservation zones or the Willamette greenway. I'm proposing to strike all those criteria so

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that the bird-friendly design guidelines apply to any City project, anywhere, as long as it exceeds 500 square feet. So, that's what my motion is -- and I wish that there were page numbers with this attachment, but there aren't.

Fish: Appendix B, page two.

Saltzman: Appendix B, page two. And I'm just proposing to strike the language around project location so that manager would look about applying the bird-friendly design guidelines regardless of where the project is located.

Fish: Mayor, I second the amendment.

Hales: OK, thank you. So the way this would work in practice is that they would be required to do the checklist and use the guidelines, even if it was a remodel? Or is it just if it's an addition of more than 500 square feet?

Saltzman: I believe it's new construction, but I'm not 100% sure.

Armstrong: So it would apply to new construction or major renovations, but not just an interior remodel.

Hales: OK. Interior work in a building is not going to trigger this, but if, for example, we're replacing all the windows on a building, then it would apply. Just saying. [laughs]. Any other discussions about this?

Fish: Do you have an opinion on the amendment, Michael?

Armstrong: We think it's probably workable. The fact that there's the process -- if for some reason there is some unique characteristics where it's not practicable, then there is a process for that. So, I don't think that we have any concerns with it.

Novick: Do we have any kind of cost estimate for this amendment? Would it cause additional cost to make more buildings bird-friendly?

Armstrong: I wonder if -- Alisa, would you like to join us? We had a brief conversation about this this morning, and I think Alisa has an initial sense of that.

Hales: Good morning.

Alisa Kane, Bureau of Planning and Sustainability: Good morning, everyone. My name is Alisa Kane, green building manager. So this is an emerging practice within the design field, but we've talked to a couple of architects who have done this type of work in San Francisco or Chicago, and they estimate -- especially if you design with the intent to do this very early on -- it could have almost no impact on the design. And more in the retrofit category, when you're applying films or adding screens to buildings to really protect what you've already built, that could add an additional 1% to a project cost. But it's really key to get it up front, and we will work with the design community on evolving everyone's understanding of this issue.

Novick: Thank you, that's very helpful. And Commissioner, I had one other question, which is, have the birds ever apologized for what they did to Suzanne Pleshette? [laughter]

Saltzman: Not that I'm aware of.

Hales: I think that's a bum rap. Other questions about the amendment? Let's take a roll call on including the amendment before we move on.

Roll on amendment.

Fish: Commissioner Saltzman, thank you for bringing this forward and for your longstanding advocacy around bird-friendly design. Aye.

Saltzman: Aye.

Novick: Aye.

Fritz: We had talked about this the last time it was discussed, so I really appreciate you bringing it back and checking another thing off our to-do lists. Aye.

Hales: Thank you, yes, good move. Aye.

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Armstrong: We have a number of bureau directors who have been involved with this, so the first on our list here is Leah Treat, Director of Transportation; Brian Enge, Internal Business Services; and Chief Janssens with the Fire Bureau.

Hales: Great, thank you very much. Good morning.

Leah Treat, Director, Portland Bureau of Transportation: Good morning, Commissioners and Mayor. Thank you for having us today. I'm Leah Treat, the Director of the Portland Bureau of Transportation, and I'm here to express my bureau's support of the resolution in front of you.

Our sustainability projects are producing savings immediately and over time in both reduced maintenance costs and lower electricity bills. 2015 is a banner year for my bureau and our work to convert the 54,000 streetlights to the state-of-art, light-emitting diode lighting. Our bureau's street-lighting division began research and testing LEDs 15 years ago when our traffic signals and pedestrian crossing signals were converted to LEDs. We've researched product reliability, and now that product costs have dropped, conversion to LED is a solid business decision and the right thing to do for resource efficiency. Over the next three years, we expect to change 54,000 streetlights. When the conversion is complete, we'll have saved 20 million-kilowatt hours of electricity, cutting our use in half and saving two million annually. The new LEDs are projected to last 20 years without changing the bulbs or major maintenance. We've already made our renewable energy purchase at 55%. That's an amount that will be enough for all of PBOT's electricity needs once all the streetlights are LEDs.

And my staff is working very smart. For example, our transportation option staff has redesigned our 35,000 walking and bike maps that get printed each year, resulting in thousands of pounds of paper being diverted from recycling and saving approximately \$15,000 in setup fees and printing costs.

Also, our bureau has garnered close to 35% fuel reduction in the amount of fuel we use to heat our asphalt at the plant and at jobsites during the paving projects. This is due to our using the warm-mix asphalt. So, this saves us money but also reduces the greenhouse gas emissions and saves us energy. Thank you.

Hales: Thank you. What's the timeline on the LED conversion?

Treat: I think we have -- don't know, I'll have to get back to you -- within the next two years.

Hales: I thought it was more than one, great.

Fritz: I really appreciate that you're prioritizing the high-risk areas and the low income areas to putting them in first. Since I live in a mixed-income neighborhood, mine is one of them. And it's not only more energy efficient and better on maintenance, it's so much better lighting. It's astonishing the change in my otherwise dark neighborhood. I have the only light for blocks around, and it really is much, much better. So, thank you very much.

Treat: And thank you for your work with us on that.

Hales: Good work. Good morning.

Erin Janssens, Chief, Portland Fire and Rescue: Good morning, Mayor and Commissioners. Erin Janssens, Fire Chief, Portland Fire and Rescue. Fire also supports these two resolutions and are reducing our emissions and carbon footprint in several ways.

First, we have solar arrays on our Fire and Rescue stations, and we generate our own clean, renewable electricity. Those are Stations 4, 18, 25, and most recently, Station 21 at the northeast corner of the Hawthorne Bridge. We also buy green power for the remainder of the electricity needs.

This year, I'm pleased to report that the bureau has reached 100% renewable power. We've also been making our stations more efficient and healthier for over a decade, and are proud to have two of the 11 LEED buildings in the portfolio. The yearly

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savings that can result from energy efficiency actions are at 80,000 per year. Cumulatively, over the past 20 years, our energy improvements have saved a million dollars at \$900,000.

We're also making strides to reduce our carbon footprint in the daily activities. As both the critical facility and community focal point, our Fire and Rescue stations need to reflect the City's commitment to sustainability and will continue to strive to meet these goals. Thank you.

Hales: Thank you.

Novick: Chief, I would also add your bureau has an inherently sustainable emission because you're preventing buildings from burning down and having to be rebuilt.

Janssens: Thank you for noticing -- thank you, I appreciate that.

Hales: We like sunk carbon, not aerosol carbon. Hi, Brian.

Bryant Enge: Good morning, Mayor and Commissioners. My name is Bryant Enge, Director of the Bureau of Internal Business Services. As you know, BIBS is responsible for over a million square feet of facilities and also responsible for over 3800 fleet and equipment. And BIBS is in support of the resolution, promoting building fleet practices that will reduce the impact of City operations on our environment and yield savings by efficiently managing energy, water, and waste through better building design, construction, and operations, and reduce the reliance on fossil fuels by greening City's fleet.

The building resolution is consistent with BIBS' current resource program. BIBS supports -- with BPS -- in making impacts in reducing fuel energy and fuel usage, and more recently, in the City's green building policy. BIBS, partnering with BPS for technical assistance and support over the years, has positively impacted the results of the projects and operations. Just a few examples.

About a year ago, BIBS received two awards in the annual Kilowatt Crackdown competition, which is a Metro-sponsored real estate competition focused on energy management. The Portland Building won the most improved, and City Hall won third place in that competition out of 65 buildings. Recently, we were in front of you here at Council to receive an incentive check from the Energy Trust of Oregon for making our buildings more efficient. Dave Tooze from BPS introduced BIBS to the ETO strategic energy management program, which has saved the City roughly \$140,000 and generated approximately \$50,000 in incentive money over the last two years.

While these resolutions raise the bar for the projects and our operations, implementation of those resolutions will provide the framework for BIBS to reduce energy and water usage, use more green materials, and generate less waste to landfills.

Hales: Thank you. What's our prognosis for using more electric vehicles, given what's going on with the technology and the cost?

Enge: We've developed a financing plan in terms of reaching the 20% goal I think by 2018, '19 or '20, so we will be presenting that hopefully in the next budget cycle in terms of if there is a desire to do so it quicker, rather than over the -- what do you want to call it -- the cycle in terms of replacing vehicles.

Hales: Great. Thank you. Questions? Thank you all. Good morning.

Jane Bacchieri, Bureau of Environmental Services: Good morning. My name is Jane Bacchieri, I'm the watershed services group manager for the Bureau of Environmental Services. I'm here on behalf of Jim Hagerman, our internal director.

As you know, managing stormwater -- first of all, the bureau strongly supports both the resolutions, and as you know, managing stormwater is one of the core services that BES provides to Portlanders. One of the nine environmental performance objectives in the resolution deals exclusively with stormwater, with the proposed 2030 target to manage 50% of stormwater from City-controlled impervious surfaces using sustainable solutions. To address Commissioner Fish's question about what City-controlled impervious surfaces

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means, it means right-of-way -- so it means City streets and sidewalks and public areas, it does not mean the impervious area associated with public and private development.

Today, about 44% of City-controlled impervious surfaces are managed via sustainable stormwater strategies. In 2006, the baseline year, it was 42%. Since 2006, more than 2000 green street facilities have been constructed, and BES continues to invest in and promote green infrastructure to manage stormwater sustainably, and strategies such as green streets and other vegetated and direct infiltration facilities will need continued support in order to meet that 2030 target.

BES' actions to operate sustainability go beyond stormwater. At the Columbia Boulevard Wastewater Treatment Plant, BES has a strong history of reducing electricity use to treat the City's wastewater. Over the past 25 years, we have cut the consumption by 40%. In 1991, our power use was 30 million kilowatt hours; last year, plant operations consumed about 18 million kilowatt hours for electricity.

One of the more exciting initiatives at the plant is our plan to utilize surplus biogas. The co-gen system at the plant right now currently uses biogas to generate approximately 14 million kilowatt hours of electricity per year, which provides much of the plant's daily power needs. But this year, we're going to begin final design work for the facility to convert the biogas that still remains and to compress the natural gas vehicle fuel. I think you heard about that in February and approved the contract to go forward on the design work. This is going to provide both cost savings for our operations, as well as significant carbon and emission reductions for the community.

BES has been involved in the development of the City's green building policy since its beginning. We appreciate the opportunity to continue to shape how the City bureaus adopt and implement green building tools and strategies. We support the green building in many ways, from using ecoroofs on all of our facilities to serving energy at the plant to deconstructing rather than demolishing structures that are no longer needed. So, we wholeheartedly supported the green building policy update. I would like to thank BPS for moving forward with these policies, updating them, and also wish everybody a happy Earth Day. Take questions.

Hales: Thanks very much.

Mike Abbaté, Director, Portland Parks and Recreation: Thank you, Mayor, members of Council. Mike Abbaté, Director of Portland Parks and Recreation. Parks enthusiastically supports these resolutions, as they will help us to achieve our motto of "healthy parks, healthy Portland."

One of the major themes of our current strategic plan is sustainability, and these resolutions will support and encourage that. One thing coming from our strategic plan related to sustainability is our new ecologically sustainable landscape initiative, which I think will become a national model for public land managers, particularly in urban areas.

As mentioned before, we are a salmon-safe certified. We were certified originally in 2004 and recertified last year, and we remain the first and only parks system in the country to achieve that certification.

We have achieved 100% renewable energy purchase for this year, and look forward to continuing that as we move forward.

We're currently participating in the Energy Trust of Oregon's strategic energy management program, and that equips staff and management to make specific operational changes to improve the efficiency of 10 park building that are under this test. Among other projects, rebates will be offered to help fund the replacement of a half century old boiler at Columbia Pool.

I think over the years, our staff has really appreciated the ability to collaborate with the Bureau of Planning and Sustainability to address a wide range of our park projects,

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because they range from verge, like a full community center, to very small, like a single bathroom. And so, we especially appreciate the addition of new green building certification options, such as earth advantage, that help us in increasing sustainability of our small buildings and small projects. So, we enthusiastically support these resolutions and thank you for the opportunity to share.

Fish: Mayor, I have a couple questions. First, we'll be seeing Jane again this afternoon when we present the first watershed report card, which is pretty significant work. When Jane said that we had reduced our energy consumption at the Columbia Wastewater facility, the additional dividend of course is we get these rebate checks, \$284,000. So, congratulations on that.

Hales: Cool.

Fish: Mike, BES and Parks got a singular honor this weekend. And because this has been a busy week with lots of other stuff, we have not had a chance to tell the Council. Why don't you use this opportunity?

Abbaté: Commissioner, I think Westmoreland Park was selected nationally by the Army Corps of Engineers for a national award for excellence in design and restoration. It's really a terrific opportunity and I think a joint effort between the Bureau of Environmental Services and Parks.

Hales: That's great.

Fish: Congratulations on that. The other thing I wanted to ask you is the natural systems goal is to get from 65% of natural areas managed by the City in healthy or good condition and bump it up to 80% by 2030. We've been having these ongoing conversations between BES and Parks about who manages them and who pays for the maintenance. Now, Metro passed a measure that provides dedicated money to maintain natural areas, and we have not. What kind of budget impact do you foresee of going from 65% to 80% of natural areas in the healthy and good condition, and we would we have to do as a Council to support that goal?

Abbaté: Commissioner -- again, excellent question. I'll give you one idea that we're working on that I think might get us very close to that target, and that's really investing in invasive weed issues at Forest Park. We have an initiative called Renew Forest Park that would really look at -- about half of Forest Park is in phenomenally good condition. We use a program called Protect the Best to address 2600 acres, but about 2600 acres has invasive species issues. And I think that in terms of the creating of healthier landscape over a huge area, that project in itself holds a great potential for moving the needle for us citywide.

Fritz: And the ask this year in the budget is a 650,000 one time.

Fish: One of the benefits of this performance objective and the scorecard of what we're doing is that on an annual basis, you can come to us and, "say this is what we have to do" and you can tell us what it might cost to get there, and we can have that debate as part of our budget. I think it's enormously helpful.

Abbaté: Right.

Fish: In addition to determining who's actually responsible for the cost, which I know is somewhat unresolved in some of our natural areas. Thank you both.

Hales: Thanks very much. Any other bureau staffs that are here to speak? OK. So, let's see if there is anyone who wants to -- who is signed up to speak on these items in addition to the folks we heard from.

Parsons: We have three testifiers. Jennifer Allen, Bob Sallinger, and Barry Joe Stull.

Hales: OK, come on up.

Fish: Bob couldn't be with us, so he sent someone else from the office.

Hales: [laughs] Who is that man? Good morning.

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Jennifer Allen: Good morning. Mayor Hales and members of the City Council, thanks very much for the opportunity to be here today. My name is Jennifer Allen, I'm the Director of Portland State University's Institute for Sustainable Solutions, and I'm here to express my support for the City's commitment to renewing the Sustainable City principles first adopted in 1994, and to updating the green building guidelines for City-owned facilities.

As you know, Portland has a national and international reputation as a leader in urban sustainability, and this reputation reflects the City's long history in innovation and sustainability-related policies and programs. But just as importantly, it reflects its commitment to continuous improvement. Refreshing the Sustainable City principles reflects the evolution of what leadership and urban sustainability means. Linking these to principles to performance objectives represents an important commitment to shift toward measurable outcomes, which is on a commitment to accountability and to really ensuring that we have positive impacts on the ground.

And while equity has always been a component of the sustainability framework, it has often been -- and in many places, remains -- a second class citizen. I think making equity a central and crosscutting lens for sustainability policy and programs across Portland once again places the city in the forefront of urban sustainability efforts nationally and internationally.

The green building guidelines similarly represent important innovations that keep Portland at the cutting edge. The inclusion of salmon-safe guidelines expands the focus from building to site, reflecting our expanded understanding of the systems that support our built environment, as well as the impact of our built environment on these natural systems. Addressing parking and transportation exemplifies the integrated systems approach that we really need to advance urban sustainability. We need to link the planning processes, to connect our places in ways that support urban sustainability and sustainability mobility. I think that the testimony from bureau directors across the board represented a really great vision of that integration and collaboration across the City.

The green building guidelines also represent an important commitment by the City to walk the talk. Later today, you will be voting on commercial energy benchmarking, and I think demonstrating that the City itself is managing its own facilities in a manner consistent with this policy is an important investment and credibility, accountability, and transparency.

In addition, in referencing some of my own research, actually, the City's green building policies have played a critical role in fostering this region's highly competitive green building industry. These policies, including the ones that focus on City-owned facilities, directly affect the economic vitality and competitiveness of the region.

Finally, I want to note the powerful synergy between the City's work on sustainability and PSU's educational, research, and operational efforts. We have a strong partnership with the City that encompasses research projects, collaboration on eco-districts, and other efforts that provide opportunities for our students, faculty, and staff to engage with City agencies in innovative learning and discovery. Together, we're committed to continuing to work with you to make Portland a vibrant, inclusive, and healthy community. Thank you for the opportunity to be here today.

Hales: Thank, Jennifer. Thanks very much. Good morning.

Bob Sallinger: Good morning. My name's Bob Sallinger, I'm the conservation director for Portland Audubon Society. I just wanted to express my appreciation to staff for their work on the green building policy. This morning I'll be very brief, I just wanted to focus on the bird-friendly building and lighting requirements and express my appreciation to Commissioner Saltzman for the amendment, and to all you for voting for it.

Bird strikes do happen anywhere and everywhere in this city. It is the number one cause of bird mortality other than habitat loss and destruction. It's a problem in the cities

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across North America. It's a problem on all types of buildings, all sizes of buildings, and again, anywhere on the landscape, so the amendment is good news.

I think it does two things. One, it helps address the problem directly by encouraging bird-friendly building; and secondly, I think it sends a message to the community that these problems do occur and what they can do about it and hopefully starts to shift the landscape on a bigger scale. So, we think it's a great amendment.

As was noted, the cost really should be negligible if we do it up front. It can cost more, depending on what you do and how you do and what you want to accomplish with your building, but being proactive about these things is a way to incorporate it early and you get great synchronicity with some of the sustainability efforts that are already on the books. So, it's really just a matter of being proactive.

We didn't mobilize around this hearing, but I did want you to know that this is an issue really important to our members, and I hear about it all the time from the community from the resolution you passed a couple years ago. It's one of those things that really did catch people's attention, and it was very, very effective. I think this will take it to the next level. But I wanted you to know that people are excited about this and people are very interested in it, and it really does have an impact, so, thank you.

Fish: Bob, before we let you go, what are three common sense things that we bake into design that address the concerns? So, when we're doing buildings, what are the things that we're thinking about differently at the common accepts level?

Sallinger: Sure. Some of the design features on buildings for sustainability like the screens, the breakup windows, but basically to shade windows and things like that are very effective. Some of the green building strategies, some of the green wall type things are effective. Just how you design the windows, whether they have large, large expanses of glass or whether it's broken up in different ways, sort of the architectural features around that glass can have tremendous impacts. Screening is another effective strategy. So, it's a lot of things that we're doing on buildings. It's not necessarily -- there is some cutting edge technology like UV impregnation of glass that I think will become more and more popular. It's an opportunity for Portland to do some economic development and become a leader in some of these industries as well. But a lot of those kinds of things that we're already doing to effect the heating and cooling of buildings also work very well to diminish bird strikes.

Hales: Great. Thank you. Good morning.

Barry Joe Stull: Good morning. I've been called a hippie type, and I was thinking about how --

Hales: Put your name into the record.

Stull: Barry Joe Stull. I was thinking about how the hippies used to take a red LED, because they hadn't developed the colors yet. In about '94, we came out with the blue, so we have the jumbo-trons. The hippies were using a little red LED that they got at Radio Shack and put it in their flashlight and that way, when they used it at night they did two things. They were energy efficient but they didn't lose their night vision. So, we see that in the movies when the SWAT team comes in and they have the red flashlights and they can see better in the dark once they turn out the light. That's called a stacked benefit.

I think one of the problems we have is we don't understand that the City of Portland is older than the first oil well. The City of Portland, of course, 1851; the first oil well, 1859, the year Oregon became a state. And I think we're missing a lot of things, like solar domestic water heating. Using electricity to heat water is like using a chainsaw to cut butter. So, unless you start thinking about how things worked for thousands, perhaps even millions of years -- let me demonstrate with my flashlight here. At this distance, we'll call it one, there's a certain intensity. But if I move away twice the distance, one quarter the

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intensity. One-fourth the distance, one-sixteenth the intensity. It's called the inverse of the square principle.

White paint is cheap. It's cheaper than fossil fuels, actually. You put that on the wall, you get reflection. So, we forget, as a culture that a hot house was actually heated by composting manure. And I guess it's a good idea to put your compost in a truck and haul it 100 miles away so you can say you're generating what, fuel? Well, how about food? You can generate food with compost. And then you can have actually mechanical energy and fight the obesity epidemic.

I have a product, shiny goodness. We hide it on the inside of the potato chip bag. It's shiny, it's reflective. Aluminum is the second most efficient metal for transferring heat aside from copper, which is a bit more expensive, and I just want to leave you with this. If I touch this and I touch this, I can tell that one of them is transferring heat and one of them is not. We don't need all these outrageous approaches when a penny saved is a penny earned.

Hales: Thank you, thanks very much. Anyone else want to speak on these items? Well, any other discussion?

Fritz: I just have one question for Susan.

Hales: Sure. Please. Oh, and we have Charles.

Charles Johnson: Thank you, Commissioners. I realize --

Hales: Put your name --

Johnson: My name is Charles Johnson, thanks. We are talking only about what the City has done, but rather strangely and wonderfully, Mr. Saltzman has shown the greatest leadership here and pointed out to us that we need to expand what the City is doing to all parties.

Earlier, Mr. Novick remarked about the intense climate crisis we face, and we need for this action and the principle that Mr. Saltzman put forth of expanding high standards for the City on to developers who'd be just as happy to be slum lords. So as we congratulate ourselves and move forward with this, I think it's very important that we remember testimony of Kristen Pilgrim, Perry Salzhauer, Kate Howser, Michael von Kleek, and Brian Houle that we're not leading anymore. We're falling behind. We're not requiring developers to go in and have sensible things like solar hot water integrated into buildings -- passive solar that doesn't even need all the goofy chemicals that are in photovoltaic solar. So, I hope that y'all will follow Mr. Novick's remarks and the leading action by Mr. Saltzman in regards to expanding the bird protection not just to City buildings but to all buildings and get the Planning and Sustainability Commission on board, getting the Bureau of Development Services on board so that instead of passing idiotic things like Pembina and deactivation of reservoirs that would be of great service during an earthquake, we actually uphold good planning standards for everything that is built inside the city limit was Portland. Thank you.

Hales: Thank you. OK. Susan, I think Commissioner Fritz has a question or two for you?

Fritz: It's an easy question. I'm very impressed with all the work that's been done. I was looking at the financial impact statement and the community involvement and noticing that it's really all City staff who've been doing all this great work. And I'm wondering, did you give a report to the Planning and Sustainability Commission similar to what you just gave us?

Anderson: We talked about the update of the green building ordinance and generally talked about that we were doing this, but we didn't have a formal report on this.

Fritz: I think next year, it would be really helpful -- next time you do it -- just because community needs to know that government is doing good work when we are. I think the bird-friendly initiative -- the last time we had a similar right -- the last one that I remember --

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that did generate a lot of community comment and it was at Council. So just making sure there's an opportunity at the Planning and Sustainability Commission, because I know when blending the two commissions, we want to make sure we don't lose the sustainability part at that commission level. So, that's just a request.

Anderson: Absolutely.

Saltzman: I just want to plant the question -- we heard a lot of testimony this morning about folks concerned about developments on 50th and Division mentioning they're not LEED-certified, probably not Earth Advantage. Is it time to extend our green building standards across the city to all development? I leave that as a question, maybe an open one.

Anderson: I would have answered yes 20 years ago before LEED was even here. I will be bridging back to you as part of the central city plan an idea about how we could do that for a larger building. The City has statewide building codes, which means we can't adopt our own local building codes but there may be some things we can do through the zoning code and there may be some things we can do through implementation and interpretation of the building code. But we have never been able to just leap-frog ahead of the rest of the state. But if you all are interested, I'm more than happy to bring back a few of these ideas.

Saltzman: I'm interested.

Fish: Does that mean under state law, we have -- [inaudible] -- does it have to be tailored - - for example, incentives of some kind in order to desired outcome?

Anderson: Yes. We can't require something beyond the state code, but we could offer an incentive.

Fish: A bonus or something.

Anderson: Yes.

Fish: Jackie is nodding.

Hales: I'll bet Jackie has an idea or two on this subject, too.

Anderson: In the next six months, you'll hear a few of these ideas as part of the Comprehensive Plan and central city plan.

Saltzman: Thank you.

Hales: Thank you very much. Other discussion before we take votes on these items? Let's take roll-call vote first on 395.

Item 395 Roll.

Fish: Well, what a nice way to start Earth Day, and congratulations on sustained excellence over many years. I actually really do like the graphic design and the way you've organized this stuff. There are a number of areas that because of my portfolio we'll be working closely on. I particularly appreciate, Susan, your willingness to help us think through some of these policy conundrums we have, particularly with water and conservation. I look forward to having that conversation. Thank you both for your good work. Aye.

Saltzman: I appreciate all the work of all the bureaus and Bureau of Planning and Sustainability, and I definitely want to recognize Dave Tooze for all of his glue that holds a lot of these very complicated projects together. I mean, he has some institutional memory and knowledge that we're going to lose unless he comes back as a consultant to us. [laughter] Thanks, Dave. Aye.

Novick: I think Earth Day should be an opportunity to celebrate our environmental successes, so I'd like to give a shout-out to the Clean Air Act, which has dramatically reduced the number of unhealthy air days throughout American cities; and a shout out to the Clean Water Act, which has drastically increased the number of swimmable and fishable rivers and lakes in the past 40 years; and to the state of Oregon's land use laws, which have reduced sprawl which promotes energy conservation; and of course to our City

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bureaus, as was just demonstrated, are work so tirelessly to reduce waste, reduce energy use, and walk our talk. So, thank you very much. Aye.

Fritz: Thank you, Susan and Michael for your leadership; and Dave for all of your years of service. Thanks to all of the bureaus for working together on this. It's a good example of a shared value that we have as Portlanders that we care about this stuff and we're willing to put time and effort into it. Aye.

Hales: I want to second all those comments, including we hope Dave's advice continues to come to the City somehow -- volunteer, consultant, whatever we can work out, because you've been great. And I think what I really want to add to the comments here is that although individually or collectively over the years, Council has shown some leadership on these issues. I appreciate yours today, Commissioner Saltzman. But there have been people in the bureaus that have been the keepers of the flame. Susan has been working on these issues before she headed the energy office. And actually before that was on Commissioner Lindberg's staff, if I got that right. Michael as well has been working on these issues a long time. Dave has been here for 25 years. There are a lot of people in this City in our workforce who have carried these ideas forward and are national leaders in their own right, and we appreciate that and this is a chance to say bravo and let's keep going and let's look for new ways to apply the talent we have in our bureaus to that shared value and now very clearly restated set of shared objectives. I really appreciate the work and the progress. Aye.

Item 396 Roll.

Fish: Thanks to everybody, particularly Alisa Kane, for your great work. We had a fuller discussion on this before, and I think we all had a chance to make our comments then, but thank you for your good work. Aye.

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

Item 405 Roll.

Hales: This is the second reading on the commercial building benchmarking. **Fish:** Aye.

Saltzman: Well, I want to commend again the bureau and the Mayor's Office for their leadership on this. This is going to be a very important piece of information for furthering people's decisions to locate in buildings that are energy efficient and have other green building features. Knowledge is power, and this is what this is about. Aye.

Novick: Knowledge is power and knowledge leads to action. I've got an example of that right here: this little step counter that tells me how many or how few steps I've taken every day, and I guarantee that I walk more since I have this thing. When people know how much energy their buildings are using, it'll spur them to use less. Aye.

Fritz: This is again something you've been working on for a long time, and I appreciate the care you've worked with the development and the business community to make sure their concerns addressed. It's clear the voluntary incentive programs haven't seen the participation rates that we were hoping for, and moving to a mandatory reporting is the right way to go. Thanks to Alisa Kane and Jackie Dingfelder and others who worked on this program, and for everybody who's participated. Aye.

Hales: Yeah, I want to again express both thanks and amazement to Alisa and Jackie and Michael and Susan for the hearing that we had. Someone described that hearing as, "please regulate me, thank you," which happen secretary of state often in our business. [laughs] It only happens when somebody does a lot of very good consensus-building over a long time, which is exactly what you've done here, and you've worked effectively as partners with the commercial building industry, proving to them that this was a good idea and patiently moving the goal posts farther and farther so that we had to run to a new spot. Everybody ran together, it was really an amazing level of consensus, and that means that not only will we get compliance but like Commissioner Novick just illustrated, I think people

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will continue to compete in a beneficial way once those numbers are out there to say, "here's how great a job we're doing," and actually complying with this shared goal and making all of our buildings more efficient. So, excellent piece of work. Thank you very much. Aye. Happy Earth Day.

Item 397.

Hales: Good morning.

Jen Clodius, Office of Management and Finance: Good morning, Mayor and Commissioners. My name is Jen Clodius, I'm a senior management analyst in the Office of Management and Finance and the staff support for the Technology Oversight Committee. I'm here with Ben Berry, Chief Technology Officer.

We're here to present the Technology Oversight Committee's quarterly report for January through March 2015. As you know, the TOC is made up of five community members each appointed by a City Council member. The TOC members are Ken Neubauer, Wilfred Pinfold, Joshua Mitchell, Dyanna Garcia, and Colleen Gadbois. Normally, a TOC member -- one or more of them -- would be here to present this report to you. Unfortunately, every one of them had a prior commitment this morning. So today, Chief Technology Officer Ben Berry will be providing you with the updates on the projects under TOC's oversight.

Ben doesn't know I'm going say this, but as you're aware, this is the last time Ben will be providing updates as CTO, and I frankly would like to acknowledge his leadership and his support of the Technology Oversight Committee.

Ben will be projecting dashboards where applicable. Each dashboard contains information from January through March and is provided by the management staff, the quality assurance contractors, and the TOC itself. Ben will then provide updated information from the April meeting, which was held just two nights ago. Ben?

Ben Berry, Chief Technology Officer: Thank you, Jen. And I did not know she was going say that. Mr. Mayor, Commissioners, I'm Ben Berry. I'm the Chief Technology Officer for the City of Portland and I'm happy to be here today.

I will be reporting on five projects on behalf of the citizens Technology Oversight Committee. First up will be the Development Services Information Technology Advancement Project. Second will be the Portland Housing Bureau's affordable housing software project. Third is the OMF Bureau of Finance and Revenue Services' procurement solicitation system. Next will be the Auditor's Office lien accounting system, and finally we will have the OMF Bureau of Technology Services and Bureau of Finance and Revenue Services' PCI payment gateway.

First up, ITAP. This project develops a paperless permit and case management process and allows complete online access to the permitting and case review services. Project deliverables include digitalization and online access to historical permits and property information, implementation of updated permit and case review management system, online case and permit application, and review of services. Mobile online access for field staff is also available, and implementation of an automatic queuing system.

The current states from the Technology Oversight Committee. This TOC continues to have concerns around the project schedule and volume of remaining work. You'll remember this project has been in red status in terms of what the TOC has been reporting for the last three reporting cycles.

Major accomplishments, however, for this quarter. This quarter, I'll remind you, from January through March of 2015, the project manager continues to deliver monthly deficiency reports to the contractor, Sierra Cedar. Secondly, most of the previous issues have been resolved. A development halt was lifted in terms of some of the project modules to be delivered. Finally, the Sierra's project manager resigned. You'll recall that we had 17

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staff from the contractor on board this project. At that time, we had changed about 16 people of the 17. The project manager resigned, as well. It constitutes a brand-new team which the bureau feels confident in, I might also add. Sierra's transition plan seems to be working well.

The upcoming milestones for next quarter are the integration of the geographic information systems and data cleanup and conversion.

And of course, the risk as TOC continues to be concerned about the project schedule and volume of remaining work. To that end, I met a CTO along with Kalei Taylor at the City Attorney's Office last week to talk about if we can't in fact reset, do a re-baseline of this initiative -- because we believe the project could gain traction by looking deeper down, a deep down review of the schedule to elongate the schedule. And in fact, the project does have some contingency dollars in which to absorb that reset, and the bureau was looking at that. At our meeting this week at TOC, the bureau did state they believe they could do a deeper dive on the schedule between now and June and publish a reset on the schedule by July, and so that is the intent.

Now, as you look at the dashboard of this project, QA assessment has shown the schedule to be red. QA believes the budget is in yellow and the scope is in yellow. The TOC assessment, however, has had a consistent red for schedule, budget, and scope the last three reporting.

One thing to keep in mind -- the distinction between what QA has seen in terms of the yellow for schedule. Many times, if your schedule is in the red, it may have a direct relationship to what your budget will look like in the future. And so, it's TOC's way of giving you an early alert in terms of their thinking on the budget not being the same as yellow for QA. And because the budget and schedule is in red from TOC's standpoint, they are also questioning the scope, and that's why they are showing that in red as well.

You'll remember when we show red for a project, it does mean director intervention. And Director Scarlett has been engaged on this. He is here today to engage any questions that you may have, as is the project manager Rebecca Sponsel.

Fish: I have a question, Ben. Part of the reason we have this system now is to give the Council information and at some point and seek Council action. We've delegated to you and the professionals tracking these things, color coding them, showing trends. But what happens if you come back to us in the next quarter and we're still -- in your judgment -- all in red? At what point do we go beyond director intervention to Council action?

Berry: Commissioner Fish, I believe there is an opportunity to correct the TOC's thinking on the schedule. If we are successful in re-baselining the project between now and June and then reporting that in July, the question you're asking about Council intervention will not be necessary. Because I think we can turn this project around, but we do need to give the project some breathing room on the schedule so that the vendor can make more deliveries given the complexity of the project.

Fish: Is there anything that you're recommending that we do today in light of this report?

Berry: Commissioner Fish, my recommendation is that you listen to the director give his response. I would recommend that the Council give credence to a re-baselining of the project between now and June and report in July so that we can make progress. I do think they are making better progress since the team has been changed out. The bureau believes they are making better progress. They have statistics on the number of deliverables that have been completed, as well as the ones actually in work. And so I think they are making progress, but they do need to readdress that schedule baseline.

Saltzman: Re-baselining means just establishing a new project schedule?

Berry: Commissioner Saltzman, that's exactly what that means so that we can have more breathing room for the project to deliver on these deliverables with this vendor.

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Fritz: And if I might elaborate on that, colleagues, the schedule previously set at the beginning of the project can never be met at this point. So it will always be red so that everything else will always be red. Now that we have this new team from Sierra, 17 of 17, and the new oversight, which Paul Scarlett and Rebecca Sponsel will be talking with you about in a few minutes, we set the new schedule and we hope to have that by July. At that point, then, we'll be able to have the quarterly reports to know if we are actually meeting a realistic schedule. We talked about that in the last quarterly report. There are four different vendors involved, and so when you're renegotiating contracts with four vendors, it's more complex than might appear and that's why it'll take until July to have that new schedule.

Fish: Follow-up question on that. If you're likely to change the schedule through this sort of reset and your confidence level is at best medium, why aren't you projecting more on the upside on the budget? Why aren't you projecting a more significant bump open projected cost for the project?

Berry: Commissioner Fish, the current dashboard you're looking at is January through March. I believe once they have the deeper dive of the schedule between now and June and the first of July, that reading on the confidence level may change. But right now, it's January through March 2015.

Fish: And what is our formal or informal policy about what additional flag goes up if we go X percent or X dollars above the original forecast? In other words, at what point does that become a concern if the budget starts growing?

Berry: Commissioner Fish, if the budget starts to grow beyond the contingency that is in the project -- you'll recall there was over a million dollars placed in contingency for this project from the outset. I think that would become another great concern for TOC and the QA at that point and should be brought to the attention of the Council.

Hales: Are you confident in our contract terms in this case with the vendor?

Berry: Mr. Mayor, we did have our City attorneys look at the contract. There's language in the contract that still needs to be examined. At some point, we have to decide, is it to the City's advantage to do the reset based on the contract language, and how does that impact the prime vendor in terms of what their rights are under that contract?

Hales: OK. I'm glad that review is taking place. There's a lot of risk here.

Berry: Yes.

Hales: Other questions? Did you want Paul to come up now and talk?

Berry: If the Council is asking for Director Scarlett to come up, I'm sure he would come up if he needs to.

Hales: Please, Paul, come up. Grab another chair if you need one. So, I just want to get your thoughts and plans for guiding this. You've been spending a lot of time and effort on this project, and you know both the opportunity and the risk here. Tell us your thoughts, please.

Paul Scarlett, Director, Bureau of Development Services: Paul Scarlett, Director for Bureau of Development Services. I am very closely involved in the project and its review, and providing guidance constantly in conversation with the vendor. And as Ben has stated, one of the biggest focuses now actually continues to be on the project itself. A number of things. One, the deliverables, the timeline, the budget.

The timeline, as you know, is in red and continues to be of major concern. The reset or re-baseline is the way to go about it. The last time we were here reporting, I did share with you that we were in conversation with the vendors and we'd look at sort of a new timeline. The new timeline currently in place for go-live date is February of 2016. That's not going happen. We are behind. And so having that frank conversation with the vendors and in conversation with Kalei Taylor the City attorney and Procurement, we have an

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opportunity to redirect and resize or re-timeline this. That's where I believe we can increase the confidence.

We have low concern or at least high confidence that they can deliver. Some of their accomplishments show that they can make this update work to of course increase access and so forth. So, would there be an increase in budget? Maybe, but that will be part of the review of the contract to see if the new timeline is going to be whatever it is -- six months or nine months or so -- what will that mean? Is there is enough money in the contingency portion of the contract to cover that effort? And we would have to explore it and reach that conclusion and decide whether to add more money or not.

We have had a lot of interactions with the vendors. They are aware -- acknowledge and are ready to work with us. The contract review will require a deep dive, as Ben has said, but it'll also take a combined effort between us and the vendor to make sure we're on the same page and have the same goal lines that are achievable, that it's realistic.

And so Rebecca Sponsel, the project manager, works more closely of course with the project and has had similar conversations with the vendors and of course with the City Attorney. In talking with Commissioner Fritz, we had the City Attorney in those discussions, and we feel there will be a higher level of confidence. We feel better moving forward in this direction rather than coming back. And of course we're in the red, we don't want to be in the red. We think there is an opportunity to get out and to move forward with the scope and the deliverables and the timeline and of course address the budget piece.

Fritz: I'm going ask Rebecca Sponsel to give the report -- a shorter version of the report you gave to me this week regarding some of the progress that's making you more hopeful.

Rebecca Sponsel, Bureau of Development Services: Thank you, Commissioner Fritz. We do have an active re-plan. We have an active re-plan and re-syncing of the project that commended in March. It is starting to return goose results, meaning the lock jam of uncompleted work has finally been broken and we have completed units being tested successfully. The integration between our plan review software and our primary permitting software has been achieved but is still in need of fine-tuning, and that is a vendor-to-vendor issue that is actively being worked but is challenged. We believe that the amendments with regard to some language in the contract about who owns which part of the responsibility will help assist us in completing this integration.

The project is red, we acknowledge that. It does not feel good, but it is a reality of risk as assessed by our independent QA. We welcome that. It guides us in our project conversations with our vendor and helps us apply leverage where it's very important to apply.

The ITAP does have complexity that was called out before my arrival and before the project was chartered about the complexity in the project itself about City co-location principles, as we have discussed in other Council meetings. That continues to be worked in the requirements gathering and in the configuration solutioning that is ongoing in this project. It's normal and natural to work these solutions and discover still more in this phase. The phase was always intended to be a year and a half long. It looks like it could go longer based on findings and based on some resource challenges that we had initially with the vendor.

We believe that the resource or consultant issues have been addressed, that we have a solid team on board, and they are partnering actively with the City to accomplish higher quality and certainly more timely delivery. That being said, we cannot make up for the time that we have lost at this point, and so we believe that a re-baseline will be important but it needs to be connected to a schedule both parties, all parties can support. And that will give all of us confidence in the date that we will eventually be presenting to Council.

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Fish: Paul, can I ask you about your budget? You've described a contingency, which we'll call bucket number one. So, if the costs go up, you've got a million dollars or something in contingency, right?

Scarlett: Right.

Fish: That's bucket number one. If for some reason you have to go beyond that, what's the next bucket?

Scarlett: We have a reserve, and we could look at as a way to support this project.

Fish: And your reserves are something in the 30-something million range?

Scarlett: Yes, or above.

Fish: So you could tap your reserves. Is there a point in which you would have to come to Council?

Scarlett: Yes, that would be a juncture point to come back to Council to show the change and request approval that we continue in that direction.

Hales: Under our purchasing protocols, they have to come back to Council regardless of the color of money, regardless of the fact that it's in a reserve fund or a dedicated fund as opposed to general fund.

Fritz: Right. But I believe your question was intended -- is there going to be a general fund ask? And I believe the answer is no.

Fish: And what's the impact on your own staffing as this thing continues? Are you required to dedicate staff that otherwise could be doing other things to address this immediate concern?

Scarlett: Fortunately, because of our very strong economic situation, we're able to have staff dedicated to the ITAP project and have added additional staff to maintain operation otherwise. So, we'll maintain that sort of arrangement and so there isn't an impact, if you will. We're able to continue running both courses.

Fritz: And I should also add thanks to those of you who have bureaus involved in the Development Services permitting system -- that we have received excellent responses from your bureaus and we will certainly let you know if there's any kind of overtaxing of your staff or a need to add staff in Transportation or Environmental Services, Water. But for now, we believe the City's part is going well.

Sponsel: I have a clarification to make to the Council. The dates that Mr. Barry was talking about -- in fact, we have made a commitment to come up with the first drafts of the amendments by the first of June. We expect that because of the complexity of the number of vendors that we will need to work them through, that we will not have something until the end of July. But we should have an indication with a schedule during the July time frame that was named early.

Saltzman: I guess I would like to request -- I mean, the next time you'll be before us is in July or end of July. Could the quality assurance consultant also appear next time?

Scarlett: Yes, and he's here.

Saltzman: Oh, he's here.

Scarlett: Yes.

Saltzman: Oh. Well, next time.

Scarlett: Yes, Case and Associates.

Hales: Other questions? Thank you both, thanks very much.

Scarlett: You're welcome.

Berry: The next project we'll be reporting on is the affordable housing software with the Portland Housing Bureau. The Portland Housing Bureau contracted with the Housing Development Software, HDS Inc. to implement a solution that will provide a single data repository for the City's affordable housing programs. This effort replaces disparate

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systems with a modern effective single core system, providing data entry efficiencies, reducing overall costs, and improving access to data and reporting tools.

The status. The test window concluded with no major issues. The vendor provided a patch that resolved all minor issues, and this project is complete. We now show that all this work done in this project is in the green from both a quality assurance as well as the Technology Oversight Committee. Any questions on the housing project? OK.

Next project we'll be reporting on is the procurement solicitation system. Procurement services is outgrowing their current solicitation system, which doesn't offer a cost-effective solution or the functionality required by the City. Procurement is planning to replace and integrate three systems into one and add functionality that will allow electronic RFP submissions.

Project is currently meeting all expectations. Major accomplishments this quarter. They developed a project schedule, the test environment was installed, they're performing initial configuration to the functionality and they're beginning the interface design.

The upcoming milestones are next quarter, they will complete development of the systems interfaces, install and configure production environment, do data migration and testing. They'll begin to manage change and train staff, and they'll be doing user exceptions testing.

From the TOC and the quality assurance stand point, both groups are showing green dashboard, and they're good to go.

Fish: Could you remind us, Ben -- two things that jump out at me on this are confidence levels are low and the budget has more than doubled. And you probably explained that previously to us, but why is the budget doubled?

Berry: Commissioner Fish, the initial reason the budget increased was because we asked the bureau to add their internal labor costs to the project. Before, they were not showing the labor cost. Once that was included, that's what constitutes the increase in budget.

Fish: Thank you. So it's more of an accounting issue.

Berry: It's an accounting issue.

Fish: Not a change in scope?

Berry: Not a change in scope. Any questions on procurement?

Hales: No, but when you get to the next project, please refresh our memory in the same question about the budget growth.

Berry: Yes. The lien accounting system rewrite -- this is the Auditor's Office -- the lien accounting system is used to record and manage assessments and liens for the City as required by the City Charter and the Oregon state law. The application is written in an old programming language, and there's one of two remaining applications on the main frame server which is scheduled to be decommissioned by July 1, 2015. Because of the tight timeline and resource constraints, the decision was made to rewrite the existing system using a more modern programming language and transfer it to a Windows environment.

To date, the major accomplishments to this quarter were completed user exceptions testing for accounts and building modules, completed development work for the recording and projects modules, the Revenue Division has begun a user acceptance testing for the receivables and reports modules, and their project exceptions plan was finalized and approved.

Upcoming milestones for next quarter. They will resolve any issues found in the user exceptions testing and regression testing. Secondly, they will continue development work on the bond processing and reports module and work on project plans for deployment, maintenance and operation training will continue.

There concerns on this project. Lack of a solid schedule is still a concern from the eyes of quality assurance, and secondly, the project is currently meeting expectations in

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terms of what the Auditor's Office feels they need to be making. So, there's a little bit of a distinction between what the QA sees on this versus what the Auditor's Office sees on it.

If you look at the dashboard, the quality assurance and the Technology Oversight Citizens committee assessment shows red for schedule, yellow for budget, and green for scope. And Mr. Mayor, your question was why the increase in budget occurred. I sit on the executive steering committee for this project, and the executive steering committee -- which is the Auditor as well as the Chief Technology Officer -- each point where we see we need to rethink our budget, we've taken the executive decision to increase by increasing staff. So we actually brought in an additional programmer, for example. We continue to assess the month-to-month status of the project. We would rather add dollars before the end date of July 1st, because those dollars added are more cost-effective versus holding the main frame on for a series of months thereafter.

Having said that, we did have a meeting just yesterday, and we determined to hold the main frame on for one extra month will be about \$40,000 to \$65,000. And so, even though we are holding the project team's hands to the fire to still meet the deliverable of July 1st, we are going hold that possibility for holding the main frame still on for an extra month so that the Auditor's Office could complete their year-end processing, which will become very important to do that in the existing system so we don't have any hiccups.

But as CTO and a member of that executive steering committee, I feel very confident that the project will be able to make their deadlines, even though QA is still showing them schedule red. Looking at the project schedule and the manpower that exists today, and with holding the main frame available, they could still pay contingency money one extra month, I still think we'll be successful. Any questions on that?

Finally, we come to the last report. This is on the payment card industry and payment gateway. You might note that we've kind of divided this project into two components. The payment gateway is an existing system that we have grown internal to the City that brings in about \$158 million. Today, it's projected to bring in about \$200 million over time. We are looking at outsourcing that gateway to the NIC Corporation. The competed with an RFP.

So, here's the information from the TOC. The City is required to meet payment card industry data security standards as part of emergent services contract as required by card networks, Visa, MasterCard, American Express, Discover, and JCB International. The City does not meet PCI 3.0 standards and is required to remediate the card processing environment or adopt other means of processing card payments to assure the City is compliant by December 31st, 2015.

Major accomplishments this quarter -- three things. PCI stakeholders are reviewing options available to meet the PCI compliance. Secondly, the payment gateway assessment was completed. And third, the contract being negotiated was under work.

Upcoming milestones for the next quarter. The chosen project quality assurance will be a board project. In fact, we've actually selected Case Associates as the quality assurance. They've completed a contract negotiation -- well, actually they're still in contract negotiations. And then create a test environment for the project and then develop an application integration strategy.

From the risk and concerns of TOC, the timeline is extremely short between now and the end of December 2015. And the TOC dashboard will begin to show the QA reporting in your next reporting cycle. Today, we don't have a dashboard for it. QA has been on board for about a week now -- Case and Associates -- but you'll have to next segment.

Hales: Talk about a project with a hard deadline. I mean, this is one we've got to meet.

Berry: Yes.

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Novick: Just to spell that out, Ben, does that mean if we do not meet that deadline January 1st, 2016, people will not be able to use their credit cards to make transactions with the City at any time?

Berry: Commissioner Novick, it does not mean that but there is a risk of that. And to that end, we do have our Treasurer Jennifer Cooperman in discussions with our bank on a regular basis to give them progress reports of where we are. We also brought in a QSA auditor to help us anticipate the kinds of things that could go wrong to make sure we're pointing in the right direction. And so, worst case, we would ask for an extension. We are not at that point now because we have all hands on deck trying to meet that deadline.

Novick: OK.

Hales: OK. No other questions?

Berry: That's my report.

Hales: Thank you very much for your report. And Ben, we're going miss you in your new private sector chapter of your career. We appreciate your great service here.

Berry: Thank you.

Saltzman: I just want to echo that. I don't know if people know this, but Ben started out as a member of Technology Oversight Committee. He was my nominee and rose to Chief Technology Officer. We've appreciate all of the service you've provided, and you've really brought a good shape and rigor to these reports. So, thank you.

Berry: Thank you, Commissioner Saltzman.

Fish: Is it fair to say we'll be thinking of you every time we hear something hovering above our houses? [laughter]

Berry: Unmanned air vehicles, yes. [laughs]

Fish: Let me echo what Dan said. We've had the pleasure -- three of us have probably had the longest service with you in this position, and it's been a sea change really in how the Council gets information and does its job of oversight. You've been a terrific colleague as well. Thank you very much for your service.

Berry: Thank you, Commissioner Fish.

Novick: Mayor, may we suspend the rules to have a round of applause?

Hales: Let's hear it. [applause]

Berry: Thank you so much.

Hales: Thank you both. We'll see if there's any public testimony on this report.

Parsons: We have one individual signed up, Charles Johnson.

Hales: Good morning.

Charles Johnson: Good morning. I'm Charles Johnson. Obviously, with five high-budget - - well, varying budget projects, we can't comprehensively address them in the time that was taken. I do think that, you know, anybody with the patience and fortitude to listen through what was presented is disappointed that there's a lack of specifics about dollars. I realize that we're dealing with a complex process here where long ago -- or not so long ago -- there was an RFP and a bid and competitive contractors. And some of those contractors might be doing better work than the people that won the bids.

But I think that even though we're just getting a secondhand summary of the report from the CTO, in the future, especially on projects that are having serious challenges like ITAP, taxpayer and citizen confidence would be increased with hearing some specific numbers and hearing about reengagement with what might be sour grapes, losing bidders who come back and say, "I told you so." And procedurally, we need to look at how do we get -- how did we end up in an all-red project and what steps are being taken to really talk about -- this really wasn't the place for it to happen but I'm concerned that nowhere in the review chain are the nuts and bolts things saying, "wow, how did we screw up ITAP so bad

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to be so red, to eat up so many City staff hours, and how do we make sure that never happens?" That's really what the citizens want this presentation to be about.

I hope that in the future -- this is a quarterly process, correct? I have great gratitude for the five CTO people. I think they should also be mentioned, I think especially Dr. Wilfred Pinfold who maybe can get us an idea on some Intel products. The federal government has recently told Intel you can't send 20,000 processors and five coprocessors to China, so maybe get some in-house infrastructure. Also thanks to people y'all have nominated.

I hope there will be email communication between more citizens and yourselves to get some real data other than just sad, red -- I shouldn't be all negative, I mean, we have the affordable housing thing that was a successfully-completed project. But then we need to talk about how much resources went into managing a tragically static affordable housing situation. We can't have a static affordable housing situation when we have a growing population of poor people. So, affordable housing software that managing the static population of people stuck in the static number of units isn't really that impressive.

But the main issue I wanted to bring forth is that the report lacked specific busy numbers and dollars. I realize there are private behind-the-scenes -- or other public open meetings where these things may come up. I think citizen confidence in this process would be improved by having specific numbers of hour of overrun turned into dollars mentioned when we talk about especially problem projects, ITAP and other projects that hopefully came in well under budget. Thank you.

Hales: Thank you. Any further Council discussion?

Fish: Move to adopt.

Fritz: Second.

Item 397 Roll.

Fish: Thanks again for an excellent report. It is actually a very detailed and specific report including budget numbers, and most importantly, it's a chance for the Council to get information in a public forum. And I think it's actually meeting the expectations of its authors in providing more transparency and oversight on our technology projects.

Obviously, how we use this information -- which is not typically the purpose of this forum -- is where we can demonstrate to people that armed with the information, we can continue to improve in how we manage technology. But technology is a very challenging thing. And I want to especially mention to Commissioner Saltzman, I know something about the affordable housing software implementation project and how complicated it was, particularly because of the consolidation of employees from PDC and BHCD. It was enormously complicated, and congratulations for bringing that home.

I think this is such a vast improvement from what we had before. Sometimes, when we make changes in how we do our business and we're criticized, it brings to mind the old adage, "compared to what?" And I think we always have to compare it to something, because it's all too easy to complain. And this system is much better than it used to be and gives us information do our job better. For that, I'm grateful to everyone that puts their time and energy behind it. Aye.

Saltzman: I want to thank the Technology Oversight Committee for a very thorough report and thank all five of them for their dedicated service to our City. Thank you. Aye.

Novick: Many thanks to the committee, thanks to Ben and the team for the report. Aye.

Fritz: Thank you to the Technology Oversight Committee, particularly my newest appointee, Dyanna Garcia, who was very excited to join, and also to Ben Berry who has done an amazing job first as a member of the TOC and since for quite some time as the Chief Technology Officer.

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You know, the ITAP project had significant oversight first from Commissioner Saltzman and now from me. It has an excellent team in the Bureau of Development Services, and I greatly appreciate Rebecca Sponsel and Paul Scarlett for their oversight. When the contracts chose the premiere vendor nationwide and then that vendor recognizes that all 17 of its staff needed to be replaced, then that does indicate it's not the City's fault that this project is now in red. So, we need to re-baseline and set a realistic schedule, which you're going to do. Unfortunately, the next quarterly report, it'll still show red because we won't have done that yet. So, just look forward to that.

And we are on the right track. Many of the indicators that Rebecca is getting weekly reports to the vendor as to what they've accomplished and what they've not accomplished. As I mentioned, we're getting excellent support from my colleagues and the other bureaus on making sure our staff are doing the work they need to do. The Bureau of Development staff -- in addition to the ITAP staff that are specifically assigned, we have project experts who in addition to the amazing volume of new work that's coming in, they're giving us their expertise. So, we're certainly have pedals to the metal -- whatever the analogy is -- we're working really hard on this and giving it the time and attention it deserves and I'm hopeful we're on the right track now. Thank you, colleagues, for all your careful questions and for your partnership on this. Aye.

Hales: You know, we're trying with greater use of performance measurements and dashboards and now this kind of careful disciplined reporting to be actively managing how things are performing, whether it's the services that we're delivering or the cost of a project or the cost of a program. And I think the more we develop those habits, the better we are. I mean, audits are fine but audits are always after all the wreckage or glory has settled, and that's why it's really important that we do this on an ongoing basis. I appreciate, Ben, that you've taken this approach. I think it's healthy for us. Thank you for great work and wish you godspeed and great luck in your next venture. Aye.

Item 398.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor Hales. Commissioner Saltzman and Commissioner Fish may remember my passionate negative attitude to waiving the sign code on the roads on the Rose Festival building in Waterfront Park. However, this is a temporary sign which I am very proud to be bringing to you to get authorization to place this sign in Pioneer Courthouse Square, which as we know is a Portland Parks and Recreation Park and has been for the last 30 years. Portland was awarded the 2016 World Indoor Championships for the international association of American -- what does IAAF stand for?

Hales: International athletic -- sorry -- amateur athletics foundation.

Fritz: We're going to have experts that tell us later, I apologize though, because I really try to not use acronyms. And that's coming next year. So director Paul Scarlett is going to start us off with the details of this ordinance and then introduce our panel of speakers.

Paul Scarlett, Director, Bureau of Development Services: I'll try to find to find my talking points here, I don't want to use the wrong acronyms either. Paul Scarlett, Director for the Bureau of Development Services. Thank you, Commissioner Fritz, it is also a pleasure for me to introduce this item.

As Commissioner Fritz has already stated, this is an exceptional opportunity for the Portland sports community and the public at large. This has been a collaborative effort with Commissioner Fritz, Mayor Hales' Office, and consultants Doug Oblatz and TrackTown USA president Vin Lananna -- and they will be up to provide more information.

The reason for the ordinance is due to the many technical challenges embedded in the City's sign and zoning codes for installation of this temporary countdown clock, the open space zoning of Pioneer Square has specific restrictions regarding digital signage,

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the countdown clock portion of the sign, the total sign area, and the height of the sign, as well as the requirements to be processed through land use process.

Given the temporary nature of the sign, I support the proposal to construct this highly-visible countdown clock to be located in the square where many civic engagements occur. The clock will be promoting a worldwide recognized track and field event hosted by the city of Portland in less than a year, and it in the public interest, I believe, to waive the application of the identified sign code and design review requirements in this particular situation.

On a personal note before I move on, I do want to share that in addition to my dedicated public servant involvement, track and field is another one of my passions -- both when I ran in college, I'm currently a coach and express my appreciation for Commissioner Fritz's support to allow me to do that. Mayor Hales, you did that as well when you had the bureau. And Commissioner Saltzman. So over the years, I've been a sprint coach first at St. Mary's and now currently at Central Catholic. I guess I'm trying to contain my excitement. [laughter] I'm very excited about this event coming to Portland, and so of course I just want to share that as well on a personal side.

I will now turn it over to Tim Heron, senior planner who has been working closely with Doug Obletz to describe the regulatory process that got us here. Thank you.

Fritz: Paul's personal comment reminded me of my dad, who then of course reminded me that it's of course the International Amateur Athletics Federation. My dad was also a runner, so a personal attachment I have to the particular project.

Tim Heron, Bureau of Development Services. Thank you. Tim Heron, Bureau of Development Services. I think Paul almost jumped out of the blocks a little too early. [laughter] TrackTown USA is led by President Vin Lananna and by lead consultants Doug Obletz of Shiels Obletz Johnsen. Issued a request for proposal of 34 local firms for the free-standing sign to be designed, fabricated, and installed using as mentioned local and creative fabrication talent.

The final design, which we'll explain further today, is proposed to be in the square. It's the heart of downtown Portland, it's our living room, as you all know, and probably the most suitable location in the city of Portland for this world-class event. The countdown clock in Pioneer Courthouse Square will call attention to the upcoming world-class track and field event. We expect thousands of people to participate and attend this event, and it is certainly an appropriate location given the civic nature and mission of Pioneer Courthouse Square. So without further delay, I would invite Vin and Doug to tell us about the event, its history, and the sign.

Hales: Thank you both. Come on up, please. Mr. Mahalic with you, if you'd like. Good morning.

Vin Lananna: Good morning. Let me first of all introduce our people who are with us here today, and we appreciate the time that you'll hear and you have dedicated to us. On my left is Drew Mahalic with the Oregon Sports Authority, to my right is Doug Obletz. We additionally have other members of our team seated behind me. Sasha Spencer Atwood -- she's an Oregonian, and actually she probably knows the most about this, because she competed in these events. Nick Thomas is here from Downstream, who helped design -- actually did design it -- and Joe Kaleel from the ETZEL Agency which will help us with the activation at Pioneer Square.

We appreciate the opportunity to talk a little about the event, the IAAF World Indoor Track and Field Championships, which will be held in Portland March 17th through 20th in 2016. In addition to that event, Portland has also been awarded the week before -- the 11th and 12th -- the U.S. Championships, which will be the place the number one team in

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the world will have their chance to select their team to compete in the world championships one week later.

The magnitude of Portland's hosting of the World Indoor Track and Field Championships in 2016 was really turned upside down this last week in Beijing, when the state of Oregon was awarded for the first-time ever in the United States the 2021 World Championships.

Saltzman: Congratulations.

Lananna: Thank you very much. As a result, Portland, Oregon, the entire state of Oregon will be on the world stage. Now, that's a really positive thing. And the thing I want to talk about is we kind of doubled down on our bet because the world will be watching us as we host the athletes of the world -- the best athletes in this great city in March of 2016.

Before we go too far talking about 21 or some of the other things, I'd like to give the Commissioners and Mayor a little sense of what the last world championships looked like in Poland. [video playing] [music] [end of video]

Lananna: On a personal note, I've been a big fan of indoor track and field for a long time. Having grown up on the east coast, there were 15 or 17 of these meets that took place throughout the country. Every major city had an indoor track meet, including Portland at Veterans Memorial Coliseum. Madison Square Garden hosted 15,000 each year. It was a phenomenal heyday for the sport of track and field.

We began the approach with, "what would be the best international competition for the state of Oregon to host?" Because track and field is in the DNA of this state. We decided that the world indoor championships could be a great place, but with no indoor tracks anywhere on the west coast, we had a challenge. We partners with USA Track and Field, which is the governing body for the sport. We thought about what would be the great space to be able to host this great world-class meet. We settled on the Oregon Convention Center because it provided a blank canvas for to us really build something special. As you've seen on that video we showed you, we'll do it even better here in Portland. There's plenty of room for the state-of-the-art indoor track stadium and all the necessary amenities that we will need to do host this event. We want to put thousands on top of the action in a comfortable environment.

So, it all began with a visit to the Mayor's office. And Mayor Charlie Hales and the staff immediately embraced the idea of putting together a bid to host the world indoor championships and we were on our way. The Mayor was instrumental in building a strong coalition of public and private support. We went on to Monaco and we won the bid against Birmingham, England, which Birmingham had hosted a very successful one but we won the vote because people are anxious and they have an appetite to come to the United States and they were excited about what we talked about in terms of Portland. As a matter of fact, 27 members of 27 voted unanimously in November of 2013 to send the world championships to Portland. We all agreed on the beautiful, vibrant city. Oregon is a state that loves sport, and our citizens will provide a warm and welcoming spirit to the entire world.

So, we presented it, we won it, and we decided we would make it the best ever, so we engaged upon several pillars. Two aspects that we believe will be really key will be the innovative approach we'll take by building this brand-new 200-meter track and building a state-of-the-art seating in the Convention Center for 7400 people. We decided we would take a new innovative approach and take an event, the pole vault -- which in the United States I think I mentioned the United States is the number one team in the world -- we also have the number one pole vaulters, and we decided to take those pole vaulters on a world scale and we would actually have them interact with the youth of the entire city of Portland, the state of Oregon, and the northwest. So we will in the Moda Center host the pole vault

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on the 17th, and it will be preceded by an entire youth engagement where the best pole vaulters in the world will interact with kids right after their event, and they will compete before and after.

We also decided with 7400 seats and the popularity of this event that we would create a free public activation in Pioneer Square. Youth activities, opportunities to engage with the athletes, the medal ceremonies -- which will be the first time with the medal ceremonies, just as they do at Olympic games where the athletes will be recognized and the national anthems will play. It'll be a large screen video board. We'll have entertainment. There will be an opportunity for the public to connect to the event, even if they're not able to actually have access to the Convention Center. But the event in the Moda Center, the vault, will be a free event to the public.

We want to show you a little bit -- before I asked Doug to kind of hit some of the youth initiatives, I'd like to ask Joe Kaleel from the ETZEL Agency to show -- give you an idea of what Pioneer Square will actually look like.

Joe Kaleel: Thank you. Good morning. For those of you who've had the luxury and pleasure of going down to Eugene for the Olympic trials over the last two trials in '08 and '12 will realize the same innovation that's being deployed now was deployed then. For the first time ever, a fan experience was created that was free to the public, and it created such a buzz and excitement in that city that I know Portland's going to embrace this in the same manner. We'll take a quick look at a fly-over of what our graphics folks have created.

This is a fly-over dropping down into the heart of the city, as you all know. So, coming from north to south, you can see what would be a replica track, a scaled replica track of what would be inside the Convention Center. So the public would see this, whether or not they are ticket holders. A large stage for entertainment and potentially viewing of some of those activations. As we sweep down the street, you'll see this clock that will be discussed momentarily in its placement as is proposed. So, here we come up on it amidst the flag, the grove of flags representing the international competition.

And so as we sweep across the center of the bowl, you can see that there's a high jump with the added element of creating the towers from the Convention Center as its bracings. And some of the things that would direct the local audience that stumbles into the square as opposed to those that know about the event to give an indication that this amazing event is happening just a short distance away at the Convention Center. You can see as we sweep up that there's a gold and silver and bronze taking advantage of the existing architecture there where the medals will be awarded. You can see a big grove of flags up on the entry level.

As has been used before, there's great elevated VIP experience up above, but in a sense we just wanted to give you a look at what we're designing today with the hope that we can create this for the public come March of 2016 and what we know will be a very memorable service for our citizens.

Hales: Thank you.

Lananna: Thanks, Joe. Now I'm going to ask Doug Oblatz to come up and speak a little bit about one of the most important pillars of our organization, and that is youth.

Doug Oblatz: Members of the Council, Doug Oblatz with Shiels Oblatz Johnsen. One of my many hats here is to help TrackTown USA develop and implement the youth engagement program which is a very, very important part of this event. As been mentioned, it's one of the pillars of the event and we're setting out to engage and inspire a new generation of fans and athletes.

This event provides the opportunity to inspire youth and to promote healthy lifestyles by showing the benefits of teamwork, passion, and excellence at the world level. We're going to stage a series of middle school and high school events in and around both

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of these championships. Middle schoolers will get a chance to run on the track at the Convention Center, and we're going to embed a number of relay races within the world championship program for high schoolers from around the state, small schools and large schools alike.

Vin also mentioned the high school pole vault event at the Moda Center. We'll have youth activities built in at Pioneer Square. We'll also be reaching out to underserved population, particularly on Portland's eastside, give them a chance to interact with track and field stars that will be coming to Portland for this event. We're also going to make sure that youth with limited financial means can attend the events at the Convention Center. With that, I want to hand it off to Drew for a couple of quick comments from the Sports Authority.

Drew Mahalic: Mayor Hales and Commissioners, the Oregon Sports Authority is a key partner with TrackTown USA for Portland 2016. As you've heard, this event will have a very large footprint at the Oregon Convention Center, the Moda Center, and Pioneer Square. We are engaged with TrackTown USA to implement the extensive youth engagement effort that will give middle schoolers and other high schoolers from around Portland and the state to be an integral part of this event.

As you know, immediately prior to this event will be the U.S. Indoor Track and Field Championships, which means that for a 10-day period, Portland will be center stage in track and field for the entire globe. It's a real big deal.

Our organization is just finishing up a third-party review of the financial impacts of this event, and I believe you have a handout that shows that the impact will exceed \$24 million. We've been involved with a lot of events -- none of them matches up to the level of the economic impact of what we're about to see in January of 2016. It's going to be 20,000 hotel room nights, 200 countries represented, 140 million viewers worldwide. It's just going to be outstanding for the city of Portland, and our organization is proud to be a small part of it. Now, I'd like to hand it over to Sasha Spencer Atwood, who herself an elite track and field 400 meter champion. She will talk to you next.

Sasha Spencer Atwood: Thank you for having us here today. As you all know, Oregon has an incredible legacy related to track and field. We think of names like Steve Prefontaine and "the Bills," as we affectionately refer to them, Bill Bowerman, Bill Dellinger, and Bill Hayward. And honestly, Vin Lananna will come to be mentioned among those iconic coaches from Oregon as well. There are athletes like Mac Wilkins and Galen Rupp and Ashton Eaton who we're fortunate enough to have produced ourselves, and then have you some of the real stars of the sport who have chosen to call Portland their home because of the resources that we have to offer, the tremendous knowledge that we have, and the support of the community that surrounds them for.

For generations, Hayward Field in Eugene has been really the Wrigley Field or Fenway Park of the sport in the United States. In 2016, we have a particularly impressive slate of events going on down in Eugene. The Prefontaine Classic, which is an annual event; the NCAA championships, which Vin has worked very hard to place in Oregon through 2021 as hopefully part of a more long term plan; and of course, the United States Olympic trials. But really, the way we talk about it that the road to Rio begins in Portland with the world indoor championships.

As someone who's spent the majority of my professional career as an athlete traveling to these events around the world, winning this bid was very personal to me. Through my work with TrackTown USA, I have the opportunity to serve the sport that has meant so much to me. I started out at Benson High School with the Northeast Community Tracksters, and then I went to north Salem High School -- my mother worked for legislature for Judy Bowman, so we moved down there, and then I went on to Georgetown

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University. And I chose Georgetown in large part because of an opportunity I had to travel there as a sophomore in high school representing Oregon and Oregon high schools and the excellence that we represent.

I've been on a world championships team, as Vin and Drew mentioned, and I can tell that you traveling around the world to different places -- my impression of the cities and often the entire country has really been colored by my experience at these track meets, both big and small.

We know how to put on a track meet. You know, there's an oval and there's some stands and there's some people, hopefully, but what really makes the experience of a track and field athlete a visitor to these places are the things going on outside of the competition. It's the Oregonians that they'll have a chance to interact with, the shops and restaurants that they'll visit, and our community welcoming this countdown clock into really what is the heart of our city will go a long way to show them our enthusiastic hospitality.

I hope that as these initiatives and requests come across your desk, you'll see more than just proposals. I hope you'll see athletes like me, little girls who started our visiting the Moda Center or the Oregon Convention Center, seeing the stars of their dreams, thousands of people who are global citizens who will leave here and travel throughout the world and tell other global citizens about the places they've been and speak as fondly about Portland and the time they have here as I still speak about places I had the opportunity to visit.

I'm excited about this for personal reasons. I'm excited to invite my colleagues and my friends to my city and my state. And for most of them, it will be perhaps the only time they have a chance to visit the United States. I want to send them home to their respective countries and communities talking about Portland the way I talk about the places I've visited and reflecting on the experience that the sport has given me.

Hales: Thank you, thanks very much.

Fish: Mayor, I have one question for this panel, and that is, for those that don't know the sport as well as you do, what world records might fall at this event?

Lananna: I'm going to -- I'm hesitant to make predictions, but I would say we have a good chance of Ashton Eaton, who is from Oregon, went to the University of Oregon, who currently holds the world record in the heptathlon, and he and his wife, Brianne Theisen, competing for different countries but married, and the University of Oregon is going recruit their first-born. [laughter] I will say that I think that's certainly a good possibility. A good possibility that the pole vault could potentially be a world record on both the men's and women's side.

Fish: Is that because we have the best of the best?

Lananna: We'll have the best of the best. That's an opportunity. Pole vault is a great opportunity because in the Moda Center, high school kids will see that, see their role models, see them -- as Sasha referenced -- their opportunity to be inspired and conceive their dreams. This is a pretty exciting opportunity. So, certainly a handful of them.

Hales: Great. Other questions?

Lananna: Before we close on this, I think that the piece we came here to talk to you about today was the clock. And this is a great opportunity for Portland to really embrace this event. Other cities that have hosted this event -- Budapest, Seville, Barcelona, Lisbon, Moscow, Doha -- so it's incumbent upon Portland to knock it out of the park, and our guy who will take us up to bat is Doug Oblatz, who will talk about the clock.

Oblatz: Sasha's a pretty tough act to follow here. Real quickly, we just want to give you a little background on the clock. The use of countdown clocks is a pretty typical device that's used around the world for Olympic games and competitions of this sort. But we set out to

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do something different, to make it uniquely Portland, uniquely Oregon, and something that would perhaps break the mold.

We went out into our creative community -- which is considerable here in Portland -- and laid out some objectives, particularly the idea of having a fully functioning time piece that would be a signature element and that needed to do operate for 300 days prior to the event, call attention to the event but also be an intriguing landmark within the downtown environment both day and night. We also designed the clock so it could be used in the future for future events and not just be a one-shot element.

We went out into the creative community, 34 firms initially expressed interest. We received six detailed proposals and eventually decided upon Downstream as our vendor for this -- and Nick Thomas from Downstream is here if there are any specific questions. This really will be an exciting element in downtown. What we're particularly excited about -- and I have to compliment Commissioner Fritz and Paul and Tim for pushing us in the right direction here -- there is a possibility that an element like this can end up being like a NASCAR car, full of logos. This one will not. The City of Portland will be the key sponsor of this clock and in fact, the only sponsor on the clock. And I think as you'll see these images, you'll see that Portland is going to be pretty much the feature of the clock, and a social media boom will follow. I'm going ask Tim to show some images and give you a sense for how this works.

Heron: Tim Heron. So, my role is really more the technical code analyst guy. We basically worked through the ordinance very closely with the City attorneys and with the team, articulating exactly where and how the signage on the sign would be applied. The ordinance walks through that.

The City will have ownership of the sign. It is a temporary sign. The changing image portions of the sign are strictly limited. And with that, the ordinance came into play because of the changing image particularly. It's prohibited in open space zones, so the ordinance allows us to waive Title 32. The timing of the event and other limitations for signage in open space zones including height, total sign area were also limiting factors. Combined with that, we waived Title 33, which has to do with the design review requirement as well as some of the signage restrictions that come with changing image, height, and total area.

So, Doug, if you just want to click -- this is the location you've seen by that amazing fly-by which I saw for the first time as well, it was very nice. One of the particular features, as I joked with Director Scarlett, is that this will have starting blocks built into the base of the sign. There is obviously a promotional opportunity and photo op at these locations, not just for the youth as it were.

Fritz: So the child, the person that's actually on the sign, that's not part of the sign?

Heron: Correct.

Fritz: It's a person posing with the sign.

Obletz: That will be you. [laughter]

Hales: You are here.

Heron: Yes. And then some aerial views and then we could go probably to these you have in your package -- examples of some of the graphics.

Obletz: This one shows hot off the press the updated graphics. the sprinter that was shown in the original submission has now been replaced by the woman that's featured in the event logo. So this literally is where we're headed with the final design. We're not 100% there, but I think the team is really thrilled with how the sign has evolved and the integration of the both the event logo and the clock is nearly complete now, and we're very excited about the image that's been presented.

Saltzman: That image of the woman is a fixed image?

Obletz: That's correct.

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Obletz: So, Commissioner, the image of the woman is the image faces the 6th Avenue side, and the moving image, which is the countdown clock, is on the Pioneer Square plaza side.

Saltzman: And then the only moving images on that will be the clock?

Obletz: That's correct.

Saltzman: OK. No advertising.

Heron: No.

Fritz: What you see is what you're gonna get.

Saltzman: OK.

Fritz: I'm particularly pleased with the image of the woman, who like Sasha, runs like a girl.

Obletz: Absolutely. We are, too, we're really thrilled.

Fritz: A very powerful girl. Lovely.

Obletz: In closing, we would like to make sure that you put on your calendars May 27th when we will be unveiling the clock. There's an event that starts about 4:15 p.m. on the square, and we'll be giving invitations to each of you to come down and enjoy our 300 day out event, which will feature a number of activities but most particularly, the unveiling of this incredible clock.

Fritz: And colleagues, if you look at those images and picture the children and adults who are going to be in the starting blocks every time somebody's taking a picture of them -- Portland, Oregon. So it's really branding our city and is going to be a very fun addition to Pioneer Courthouse Square. For those fiscally responsible folks, they will be paying rent to Pioneer Courthouse Square, as do other users of the square, such as the food carts, and so all of these events are cost-effective for the Portland park. I very much appreciate that, too.

Fish: Coach, I just had a question so the record would be complete. We don't often get track stars who come to this body. My guess is that Ms. Spencer Atwood is very modest. Can you tell us again what her particular specialty was?

Lananna: I'm going to do one better and have Sasha come up and tell you her PRs. There you go. I'll verify if they are accurate. [laughter]

Spencer Atwood: I believe I'm still the Oregon state record holder in the women's 400 meters.

******:** Yep.

Spencer Atwood: I went on to run primarily the 800. Well, I ran the four and the eight in college, and I ran the 800 primarily professionally for Nike for eight seasons. The man next to me is very used to hearing the word "yes," and I've maintained the distinction of being one of people who told him "no." I was 17 when I first met Vin, and he recruited me to go to Stanford University, and I chose to go back east and run for his best friend at Georgetown. And there, I was a 12-time NCAA all-American. I've been on this indoor world championship teams and represented team USA on a few other teams, as well. The Olympic team I have not made, but I look forward to being able to support all of our athletes as they headed to the 2012 games and on to Rio as well.

Fish: Wow. And what is an elite time in women's 800?

Spencer Atwood: A really elite time is sub two minutes in order to really be able to compete on the world stage. I mean, you have athletes who are running consistently sub-1:58. Every season we get some 1:56s in there as well. The United States has some big up-and-coming stars we're excited about.

Fish: Congratulations.

Saltzman: Yeah, thank you.

Lananna: Please strike the part out about choosing Georgetown over Stanford. [laughter]

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Hales: Thank you all very much. Other questions? Thanks for your presentation. Anyone else want to speak on this item? OK, so we're ready to vote.

Moore-Love: Mr. Lightning has requested to speak.

Hales: Oh, Lightning, OK. You have to run to get to the microphone on this item.

Lightning: I absolutely approve the clock being located at the Pioneer Courthouse Square. One of the things I almost think it's going to be like an iconic clock and I was wondering if maybe the clock could end up staying there permanently having just the time displayed, the regular time of day. I wanted that to maybe be looked into.

I dealt with a gentleman many, many years ago who is deceased, Seymour Durst out of New York. I had a discussion with him. He had a national debt clock by the Bryant Park that we were talking about going from private to public management, and I was always kind of upset they didn't leave the clock in that location. I know one of his sons, Douglas, built a building on the edge of the park there. Sometimes some of these clocks are meant to remain in the location they are put at originally, so I wanted some thought to be put into that.

On the international association of athletics federation, I definitely can't say anything negative about this. I have a relative who's been with Nike 25-plus years, one of the original employees there, so I definitely can't say anything bad about this for obvious reasons. I definitely support this.

Just real fast on the management of the park, the Pioneer Courthouse Square there, it's my understanding that's managed by a nonprofit, so that's public and private. I was wondering what their thoughts were on this. At this time, I haven't heard anything from them. I understand you probably have a management agreement with them.

Again, in the past just real fast we've stated that Bryant Park was a private park and I want to have a clear understanding on that. That's managed by a group that is still publicly-owned. We need to keep that clear because a lot of times the public thinks that when you say it's a private park, somehow they have taken control of it and some type of ownership. That is incorrect. That's a corporation that has a management agreement on Bryant Park. We need to keep that clear to the public because when you say it's privately managed and controlled, they may think it's some type of private ownership. So I want to make that very clear. Again, I absolutely agree with this clock and I hope it can remain for many, many years. Thank you.

Hales: Thank you. Yeah, I think the Pioneer Courthouse Square board has been consulted on this and they're squared away on it, right?

Fritz: Right.

Hales: So, time to move the vote on the emergency ordinance then, please.

Item 398 Roll.

Fish: First, Mayor, and those who did the heavy lifting and had to take the trip out to present, congratulations. What a feather in our cap. Commissioner Fritz, thank you for bringing this forward and for shepherding in ordinance.

When Drew and Doug come before us, you know it's always something good that's going happen. Thank you both for being tireless cheerleaders for sports. It was a thrill to meet Vin Lananna when he came to our office. Obviously, I know him by reputation, but we don't often have big-time track people in our building, so that was a thrill. It was an even bigger thrill today to meet Sasha Spencer Atwood, thank you very much for joining us.

The other day, I was having breakfast downtown and a couple sat next to us at the Daily Cafe. And I had read the paper the day before and seen their picture, they were profiled. So I kind of elbowed the person I was with and low-key it said that's the world's greatest athlete next to us, and they may together be the greatest athletes. And it was

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Ashton Eaton and his wife nonchalantly eating in Portland. It was a real thrill, and I don't even understand track. I think if we did a celebrity 5K, there's no one up here who could actually do it, but we could test that assumption. But it was very exciting and very humbling to have the greatest athlete the in world just there with his family just fitting in. So, we're honored to have this and we really appreciate the Mayor and his leadership.

Just one last word about sport. My daughter is the person she is today because of sport, and it is where she learned all the great lessons. Her sport was soccer, but she did not get a scholarship to college because of her sport, she got it because of all the ways it changed her life and made her a better person, and that's how she got a scholarship to college. So, sport just changes lives in so many ways, and you're a shining example of that. So, honored to join what I guess will be a unanimous Council in support of this worthy effort. Thank you. Aye.

Saltzman: This is a very exciting event. It's great for Portland, great for Oregon, as will be the world championships in '21. That's an outstanding coup, Vin, so thanks again for your work on that. I really look forward to this. Aye.

Novick: I'm old enough to remember Steve Prefontaine. I lived in the Eugene area when he was active, and it's nice to be reminded that Oregon is still a track and field capital. And Sasha, I really appreciate your coming here because it really makes the whole event much more real. And of course, it's always cool for us to have celebrities here. It was cool when the Decemberists were here, too. I also have to say that I won't complain about you spending time in Georgetown, because I too spend a bunch of time in D.C., so your being here makes me feel like I'm part of a broader D.C.-Oregon fraternity and sorority.

This is going to be a great event, and congratulations again to Gail and the Mayor. Thanks, Commissioner Fritz. Aye.

Fritz: This has been a very fun event. My father ran faster than Roger Bannister at one point. Of course, that was cross country and Roger Bannister was good at running the mile, but that was his claim to fame and I have track and field to thank for my dad coming to visit to me every spring for the Shamrock Run and every fall for the Portland Marathon for many years. Indeed, he came in 2008 for the event in Eugene. So, many fond memories even though I don't even run for the bus. I'm going to be doing a 5K in a couple of years, but that will be a walk for the NAMI organization here in Portland.

I'm very pleased with this project. Thanks to Tim Heron and Paul Scarlett in the Bureau of Development Services, and to Doug Oblatz and the design team. Every time when it was put in front of me and I said, "what about this?" instead of "no, we can't do that" it was, "oh, yes, we can do that" and then you continued to refine it and have brought it to perfection at this point. I'm very much appreciative. It's going to be a lovely statute, a lovely sign, an interactive not just to look at it but to play on it and really enjoy our great city and wonderful Pioneer Courthouse Square. So, thank you to Doug Oblatz, Vin Lananna, Drew Mahalic, Alberto Salazar who was also involved in making the event a reality, and Gail Shibley who has been so involved in getting the sign moving forward. We very much appreciate your partnership in the Mayor's Office. It's going to be really fun. Aye.

Hales: Thank you, Commissioner Fritz, and to the bureau for helping get this really important precedential event set up. This is really where the community I think is going to start to learn about this event and what a great thing it's going to be for Portland -- these two events, really -- and what they will mean for Portland and for the state. I want to thank this whole team. We've all caught the enthusiasm of what you're about. I think that will build as that clock counts down. I think also, Commissioner Fish, these events will build on the success that you helped engineer with the Major League Soccer event, the championship here because it showed the world that Portland really can put on a first-class international sporting event. And that was both a great success as a sporting event,

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but it was also a great success as a community event for a lot of people who literally enjoy our city at street level, just like they will in this case. So, I think that started some momentum that this is going to accelerate. It's going to be great. I think you hear on this Council a lot of commitment and excitement to make sure that it's all that it can be, so thank you for a great start. Look forward to the 27th. Aye. OK, let's move on to the hold consent item.

Item 399.

Hales: Lightning, you pulled this, is that right? Do you want to speak on this item? OK. Come on up and explain it to us, and then we'll give him a chance to testify.

Susan Harnett, Office of Management and Finance: Good morning, Mr. Mayor, Commissioners. Susan Harnett, spectator facilities and development manager. Pardon my voice, I have a cold this morning.

The item in front of you is a simple contract amendment, it's our contract with Travel Portland for convention tourism and travel promotion, which is paid for by dedicated funds from the City's 1% transient lodging taxes which are specified in the City Charter. You may recall last July when Jeff Miller, President and CEO of Travel Portland was here to give you the annual report for 2014 -- that he mentioned the desire to change the performance measures to update and upgrade them to tie them into an industry standard that they had begun to work with.

At the time, you all indicated you were interested in seeing that change made. I was here and told you that it would require contract amendment since the original contract and its attachment -- which is what you're amending today -- were adopted by Council ordinance. So, that's why it's in front of you today. I'm happy to answer any questions.

Hales: Thank you, Susan. Come on up and speak, Lightning.

Lightning: My name is Lightning, I represent Lightning Watchdog X and also Lightning Housing X. One reason why I pulled this item is that when we're always discussing tourism, just as this last resolution we discussed, it's a number that can be very interesting as far as where we can go with that because there's really no limits on running the city more efficient on the amount of tourism dollars that can come into Portland. So just on these types of events that we were discussing and the Convention Center hotel, various things like that, it's an unknown, and we all know that it's going to be very beneficial.

One of the concerns I have is I want to have more studies on when we decrease homelessness through the city, what benefit is that going to be toward tourism? We know there will be benefits. We don't want to have conflicts between the two of them but we know that if we can get some people into what's called affordable housing, tourism dollars are going to go up. We know that the businesses around the city, their profits will go up. So we need to keep a close eye on that and keep coming up with a number to really decrease chronic homelessness through the city and look at the benefits by the data that we might show as far as on potential gains. Because I'm not talking only for the people, I'm talking through the whole city from an economic standpoint. But again, of course, from the social standpoint of the physical, mental health of the homeless and their longevity of life by having housing

Again, I have talked about that property over by United States post office building at 715 NW Hoyt. I would like to be looked at that again doing a project at the 30% MFI or lower. I want it designated at that income level for the most vulnerable people in the city, and I want to have an understanding that we can pay these projects off if we do them right with the increased revenue such as from the tourism industry, such as from the businesses throughout the community showing increased profits because we're running the city more efficiently and people are in-housing being more productive and more healthier. When you start calculating those costs we can do appear large scale project and probably pay it off in

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a reasonably short time and have that longevity of housing for the most vulnerable people in the city. Again, I hope we look at that project that urban renewal dollars are thinking about purchasing and we design it to benefit the people that need to be taken care of the most. Thank you.

Hales: Thank you. OK, anything else? Let's take a roll call vote on the ordinance.

Item 399 Roll.

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

Item 406.

Hales: Commissioner Fish -- no I guess it's not, it's procurement -- never mind. Christine is here.

Christine Moody, Chief Procurement Officer, Office of Management and Finance:

Christine Moody, Procurement Services. You have a procurement report recommending a contract award to Emery and Sons Construction. The original engineer's estimate on this project was 1.9 million. On February 24, 2015, eight bids were received, and Emery and Sons is the low bidder at \$1,282,990. The Bureau of Environmental Services has reviewed all bid items and accepts the price offered as good. The City identified seven divisions of work for potential minority, women, and emerging small business subcontracting opportunities and the participation on this project is at 42.1%. I'll turn this back to Council of you have any questions about the bidding process and --

Fish: Christine, one question. Generally in this more robust market, we've been seeing prices sometimes come in above the engineer's estimate just because there's a capacity questions. Any thoughts as to why we got such a good price?

Moody: I can turn this over to Dan. I do have a thought in that as Council had asked last fall, the bureaus have really been working on updating and firming up their estimating. And so with the more robust market -- and especially Environmental Services has updated their pricing to be more in line with what's going on right now in 2015.

Fish: But we're still looking at about a 40% off of the engineer's estimate. If you know, is there any particular factor that explains why we got a good price?

Dan Hebert, Bureau of Environmental Services: I'm Dan Hebert with Bureau of Environmental Services. I'm the overall project manager on this project. I suspect the biggest factor on this is in our estimating and planning for this project, we anticipated almost all of the work was going to be at night because of traffic control issues and since it's in an ODOT right of way. And we tried to be conservative in our estimate so we wouldn't -- we didn't want to be the low bidder in any case. So, I suspect that's the biggest factor. There was more interest from the contractors -- we had, what, seven bids were received on this project. So, I think the competition drove the price down below what we'd estimated.

Fish: Thank you.

Hales: Thank you. Other questions? Thank you very much. Anyone want to speak on this item? Then a motion to accept the report.

Fish: So moved.

Fritz: Second.

Hales: Roll call.

Item 406 Roll.

Fish: Thanks again for your presentation and good work. Aye.

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

Item 407.

Hales: Thank you all for waiting. Welcome. Kick this off, Mary Beth?

Mary Beth Henry, Office for Community Technology: Mayor and Commissioners, I'm Mary Beth Henry, staff director for the Mt. Hood Cable Regulatory Commission and

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manager of the Office for Community Media. With me is one of Portland's stellar citizen volunteers, Sue Dicile, who represents Portland on the Mt. Hood Cable Regulatory Commission; and Chris Denzin and Jim Campbell of CenturyLink. We're pleased to be here for the first reading of the CenturyLink cable franchise.

As FCC Chair Wheeler said last week, we recognize that broadband is the indispensable structure of the 21st century economy and democracy. In every study about economic development, the importance of broadband internet services is mentioned prominently. What a city does or does not do vis-a-vis broadband can in large part determine a community's success.

The cable franchise represents a significant infrastructure investment in our community. As you'll hear shortly from Chris Denzin, CenturyLink has already started deploying fiber to the home in Portland to prepare for launch of their cable TV service. We know that competition spurs network improvements and better customer service. Today, a typical family of four has seven devices at home. We believe that by approving a second entrance into the marketplace both the incumbent provider, Comcast; and the new entrant, CenturyLink will rise to the challenge with network improvements and better service for our customers.

The franchise requirements are commensurate with Comcast.

Finally, Portland's broadband strategic plan calls for state of the art fiber to the home broadband, CenturyLink's commitment to deploy this infrastructure will help Portland achieve this goal.

I have handed out the MHCRC resolution unanimously passed after public hearing in January, and a side letter on PEG from CenturyLink. We have a couple of comments from my colleagues and we're happy to answer any questions.

Hales: Thank you.

Chris Denzin: Thank you, and thank you, Mayor, thank you Commissioners, for taking the time to hear about our renewal of our video franchise we've had for a number of years. A couple of things I'll kick off, and then walk you through a brief presentation about CenturyLink and our video product, and certainly happy to answer any questions you may have. After I'm done, I'll hand it to Mr. Jim Campbell, to my right.

I want to thank Mary Beth and the MHCRC and certainly the City of Portland for their time and efforts to negotiate with us in extension to our radio franchise. It's been a great process and a great partnership I think to get where we are today.

From there, I would like to walk you through a couple of elements about CenturyLink, so I'm going to use the presentation here. Just briefly about our company -- our company has grown significantly over the last 20 years. We've been in business for 75 years. We've had three CEOs in our entire history, so you have a significant lengthy time of stability in our leadership. But the big thing is right now we're a top three communications company nationally. We operate in over 40 countries around the world. We have over 400,000 miles of fiber laid throughout this country and many others as well. We are a cloud provider, a data provider, a TV provider, IT services provider, and a voice provider as well.

A couple things we do have -- we're bringing to the table with this video franchise we spend about \$3 billion a year in capital to invest in our communities. The second thing is we do have an innovation team and technology team dedicated to improving and bringing this technology forward as well, and we do have experience which I'll just show you in a moment bringing video services to market in many different markets as well.

Briefly on our commitment to Oregon. Over our history, 100 years in the state of Oregon, we've invested over \$4 billion in the state. We have over 1000 employees doing business in the state of Oregon as well. We bring in over \$14 million -- or pay out \$14

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million in property taxes on an annual basis, and we also contribute about \$88 million in annual salaries to the state of Oregon as well.

More recent exciting news -- again, I mentioned we do invest in the state of Oregon. Last year, in this very building, I announced that CenturyLink was committed to building a fiber to the home network in the city of Portland, and that construction has taken place or has begun. You may see many of our trucks and employees laying fiber across the City of Portland. Very pleased where we are today, and that building will continue on for the foreseeable future to get this in place as well. So, very excited about what fiber to the home can bring. Mary Beth Henry had just talked about what the future may hold. We do expect by 2020 that approximately 20 devices will be in homes by that time.

Quick history on our IPTV product Prism. We do pass over 2.4 million homes today in 15 different markets. We have about 250,000 customers nationally. In the last two years, we've launched new markets in Denver, Colorado; Colorado Springs; Phoenix, Arizona; and Omaha, Nebraska, and we would like to bring forward our Prism product into Portland, Oregon.

Briefly, what is Prism TV why is it different? As I mentioned earlier, our company has transformed over the last 20 years into a data and cloud provider. We have 59 data centers around the globe today. What that means for us is when we deliver video services, we deliver it over an IPTV platform. It's an IP-driven service. We use our fiber backbone to deliver these services to the home. It's a two-way synchronous network to deliver our video product as well, and it's interactive meaning it's a cloud-based application. We can make changes, modifications, and updates real time with the end user as well. It is also 100% digital video quality and sound as well. It is not a traditional cable TV service as you may know it, it is an IP-driven service.

Let me tell you what that means for the end user for a moment. Couple of key things. One is the wireless set top box. As you know, many times we have to rewire a home with cat 5e or cat 6 or higher band width capable products. With a wireless set top box ability, we don't have to rewire the entire home anymore. Customers can pick up a box about this size, move it to any room they'd like to go into, and also use our service as well. So you don't have to buy or pay for four or five set top boxes anymore, they can simply pick one up and move it to another room.

Secondly, we have an app center built into our product. With the app center -- because again, we are a cloud provider -- we can deliver applications right on the screen, we can update them at any given time, and it creates an experience with not only our company but many other companies as well.

On the far right hand side, I just want to point out we're a whole home DVR leader. We are one of the companies that originated the product into the marketplace a number of years ago when we first launched IPT service as well.

I just want to point out a couple of other features. Many of these features you're probably already familiar with, but the one I'm going to show you in just a moment is called multi-view or mosaic. The reason why this is important is when people want to interact with PEG or other sports channels or other entertainment packages, they can actually do that through a mosaic. Let me show you what that is. This is an example on the right side of what a mosaic PEG distribution channel looks like. This is an example in Phoenix, Arizona. You can see on the left-hand column you have multiple PEG channels being displayed simultaneously. The customer can then select on any one, make it the primary channel, but they can also watch the others real time as well. We do that not only with PEG but with many other channel types as well, as you can see sports on the left-hand side.

We do offer five packages today in our 15 markets. They are Prism basic, essential, complete, preferred, and premium. Our rates do vary depending on what the promotional

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periods are at that given time, but channels starting as low as 20 channels in the Prism basic plan all the way up to 320 channels in Prism premium plans. These are consistent throughout the country, we don't price or make changes by any specific market.

Saltzman: What does rack rate mean?

Denzin: It just means your normal retail rate without any promotions. Let me wrap up. One, in good faith we've been negotiating an extension of our video franchise. We are committed to bringing you video, a wire line video broadband service to the city of Portland and this will bring much needed competition to this area. As you know, there hasn't been a wired video competition or competitor in this market for its entire history, and this will be the first time we bring that forward as well.

Secondly, this is an IP-driven video product and it requires higher bandwidth speeds to make it work. For us to deliver IP video services, it requires a minimum of 25 meg broadband connection to make it happen. So hence our interest in building fiber to the home and expanding broadband services throughout the Portland and the region as well. We are in 15 markets now. We have a technical team capable of doing this. We've shown in 15 markets today we're very successful doing it. We have a highly engaged technical team, an innovation team as well, so we do have the experience to deliver this particular product.

Lastly, we do think that everybody will benefit from having another wire competitor in the city of Portland. An FCC study about five years ago demonstrated that a second entrant will generally reduce rates by about 10% or more based on that particular study. With that. I want to turn it over to Mr. Jim Campbell for a few closing comments.

Jim Campbell: Thank you. Mayor, Commissioners, thank you very much. My name is Jim Campbell, I'm regional vice president for regulatory and legislative affairs and I also negotiate franchises across the country for CenturyLink and I'm very excited to be here today talking to you. I also want to thank Mary Beth for her work and her team working with my group to get this done both at the commission level and I embrace you -- commend you for embracing competition.

As Chris said, this FCC study showed that incumbents generally behave a little bit better when there's a wire line competitor. I can tell you in the markets that we've launched in Phoenix and Denver -- I'm actually very happy gig and Prism customer in the city and county of Denver -- that we've seen pretty progressive reaction from the incumbent, and that's the benefit that citizens of Portland are about to experience.

I'm not going to get into the nuts and bolts of the franchise. As Mary Beth said, we worked long and hard to negotiate these terms and conditions. We're very excited to come here and I certainly stand ready to answer any questions you might have. Thank you.

Hales: Thank you all. Questions for this panel?

Fish: I just had one question about the wireless component you were talking about. At home, we have something above the TV, probably from a competitor, and it has about six wires going out of it and there's a warren of wires behind my TV and I'm always afraid someday there's going to be a problem because I don't know what goes where and it's also a dust magnet. You're saying this technology allows you to skip all those cords and it just operates wirelessly?

Denzin: Inside the home, we deliver one gateway connected box through either a cat 5e or cat 6 connection. Beyond that, every other set top box in the home is wireless. You can place it on any desk top, on your patio -- move it to any room you like. So yes, there would be no additional wires for any other room but one.

Fish: And is there any difference in the safety and security of the system whether it operates wirelessly or whether it's as a cable?

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Denzin: No. The way we encrypt the information into the set top box, the gateway, it will prohibit anyone from tapping into that particular signal, and the reach is not going to that far beyond the perimeter of the person's home.

Fish: Thank you.

Hales: Thank you. Other questions?

Novick: Actually, I've got a question. Could you send me a copy of that FCC study? Because it's always nice to see evidence that competition actually works.

Denzin: Yes, we can.

Hales: Applicable in a number of settings.

Henry: I believe Commissioner Dicile is going to deliver the closing remarks.

Hales: OK, Sue, you're on.

Sue Dicile: In the interest of time I've edited my remarks because I think a lot of what I had to say was covered, and that's great. But I did want to say -- and for the record, I'm Sue Dicile, I'm one of three representatives of the City of Portland to the Mt. Hood Cable Regulatory Commission. We have conducted a public hearing on this franchise in January. The commission voted unanimously in March to recommend approval of the franchise to the City Council.

You may remember that we've had a cable franchise with the predecessor of CenturyLink, Qwest, since 2007. So, we have been anticipating that at some point we would have wire line competition for cable services here in Portland, and it looks like the day has come. We are very gratified to be here today. We think competition is going to be great for Portland, and the MHCRC would like to recommend this franchise to the City.

Hales: Thank you very much.

Fish: Did we get any objections to this? I'm looking in my packet. Do we have any official objections that were lodged to this action or concern raised?

Henry: There were some concerns raised by the incumbent cable operator, Comcast, and I did respond in detail to all of those concerns and provided copies to all the Council offices, and then did some briefings with Council offices. As far as I understand, we're good.

Dicile: Commissioner Fish, I would like to say to that point that the commission did spend quite a bit of time addressing Comcast's concerns, which we took really seriously. But we determined that the franchise has adequate buildout provisions and stage gates that really give parity to Comcast, and also, the examples that Comcast cited in other cities we found that actually upon analysis our franchise was even more stringent. So, we thought that the concerns raised by Comcast -- while legitimate concerns -- we thought were very well addressed in the franchise, and that was part of the unanimous acceptance of the franchise by the committee.

Fish: Without getting into the specifics of any concern that's raised, just for our purposes, are we offering any term or condition or benefit to Qwest dba CenturyLink that we would not offer to any other competitor?

Henry: No, we definitely would offer this same package to any competitor that wants to come into Portland.

Hales: Thank you all very much. Anyone else signed up to speak on this item?

Moore-Love: I did not have a sign-up sheet

Hales: Anyone want to speak? Come on up. Good afternoon.

Bea Coulter: Good afternoon. I'm Bea Coulter, acting executive director of Portland Community Media. We manage the PEG services for Portland.

Portland Community Media strongly supports the City of Portland's grant of franchise to CenturyLink. The public benefit provision secured in this franchise support PCM and our efforts to connect marginalized populations to the digital world that is leaving

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them behind. It ensures that the Portland community has access to commercial-free cable channels, digital content creation training, and access to technology that allows them to have a voice in the community, stay current on local issues, and stay connected to their local government. It also creates an environment of real competition for cable services in Portland.

Competition breeds innovation and improvements in customer service, and competitive pricing will enable more community members to get connected at a price that is affordable, ultimately bringing new customers online. It's good for Portland.

This could not happen without the smart, thoughtful, and caring people that work in your Office for Community Media and who volunteer on the Mt. Hood Cable Regulatory Commission. They have stewarded these processes for years on behalf of the City, securing exceptional benefits for the city of Portland. Thank you.

Hales: Thank you. A good reminder of the benefits we obtain from this franchise fees and from this whole system. Thank you. Questions? Thank you all. Sue, to you and the other volunteers that serve on the commission, we really appreciate your service. It's another case where our volunteer citizen commission and a capable staff are getting to a good result negotiating something that's really important to the whole community. Thank you for good work. This will return for second reading next week. Thank you.

Item 408.

Hales: Commissioner Fish.

Fish: The hearing is gone late today, David, so I will dispense with my introduction and introduce David Shaff, the bureau Director, and ask you to make an economical introduction.

David Shaff, Director, Water Bureau: Good afternoon, I'm David Shaff, the Director of the Water Bureau. With me is Ann Richter, the LT2 treatment variance program manager. I actually think the ordinance probably speaks for itself.

We have a variance that allows us to avoid building another treatment plant at Bull Run. It requires us to do regular water sampling. That type of water sampling for cryptosporidium has to be done by an EPA-certified lab. Our lab that we were using last year closed shop. We had an emergency ordinance in front of you last year that covers us through June of this year. We have put the work that will need to be done -- two divisions of work -- out to bid, and this ordinance is intended to award contracts to two different companies that will do both divisions or each will do a division of work, but we set it up so that if either of them is no longer able after we've start to comply with their contract, the other can pick up that division of work. So, we'll try to avoid getting into the position we were in last year with having to scramble to replace a lab that had shut down. If you have any questions, I'm here to answer them.

Fish: What did he miss?

Ann Richter, Water Bureau: He got it all.

Hales: Questions? Apparently not. Thank you both.

Shaff: We'll see you next week.

Fish: Thank you.

Hales: Thank you. Anyone want to speak on this item? If not, it moves to second reading next week. Item 409, second reading.

Item 409.

Hales: I assume the questions got resolved.

Saltzman: Yeah, I just want to -- I have a short statement. I hope to get Council's support allowing me to execute the lease for office space for the Children's Levy in the Spalding Building. The Spalding Building is where the Levy has worked diligently for the last 10 years. It supports the City's policy of being tenets in a registered historic building. I support

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responsible working conditions for those that work in buildings in Portland, and my office has been in contact with SEIU Local 49 regarding the conditions in the Spaulding Building, and these conditions will be a consideration as I execute this lease. I'd appreciate your support.

Fish: Mayor, this is somewhat unusual since it's a second reading, but I appreciate the courtesy that Commissioner Saltzman extended to me and the Council to set this over a week. I've had a chance to go to a briefing and I fully support the contract before us.

Hales: Great. Roll call, then, please.

Item 409 Roll.

Fish: Aye.

Saltzman: Aye.

Novick: Very glad to hear that Commissioner Saltzman is talking to SEIU 49 about this issue about working conditions. Thank you very much. Aye.

Fritz: Yeah, I appreciate taking an extra week to satisfy your colleague's concern. Aye.

Hales: Aye.

Item 410.

Saltzman: I'll turn it over to Director Traci Manning and Assistant Director Javier Mena.

Traci Manning, Director, Portland Housing Bureau: Thank you, Commissioner, Council. With me is Assistant Director Mena and also Barbara Shaw. Those two really helped shepherd this project through to where it is today.

This is an opportunity to acquire Pearl District land for affordable housing development. It is the result of the 1999 development agreement between the City and Hoyt Street Properties. That development agreement covered a whole bunch of goals and commitments for the 34-acre Hoyt-owned area in the central Pearl District. It included the streetcar, it included parks, roads, and housing.

The goals for affordable housing targeted 35% of the total housing developed for households earning less than 80 percent of median income, including 15% of all housing for households at zero to 50% MFI.

Today, as we all know, there's a thriving community in the area with stores, offices, roads, great transportation and parks, and it includes some wonderful affordable housing at the Sitka Apartments, Pearl Court, and under construction Abigail Apartments. In fact, during the term of the agreement, we had 727 affordable units developed.

Regarding the terms of the agreement, as of September 14, 2014, the City provided notice that 30% of all newly-constructed units in the area were affordable under the development agreement defined terms, therefore the 35% affordability goal had not been met. I'm going to ask Javier to walk us through the steps that the City and Hoyt Street took to remedy this situation.

Javier Mena, Portland Housing Bureau: Good afternoon, Mayor, Commissioners. My name is Javier Mena at the Housing Bureau. In accordance to the development agreement provisions, both Hoyt and PHB agreed that they would move forward on a process procuring other affordable units. Under the development agreement, Hoyt was allowed to designate a parcel that the City could purchase for a price determined through a six-step six-month valuation process involving three appraisers. Useless the formula in the development agreement to arrive at the purchase price and parcel size, and with some additional concessions from Hoyt, the City now has the opportunity to buy a 10,000 square foot parcel on the corner of NW Raleigh and NW 14th for a price of \$1.3 million, which is 13% below the market value.

In terms of the next steps, PHB is doing some preliminary work to determine exactly what would be developed. We're currently working with Commissioner Saltzman's office

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on the priorities, and looks like the project could include family size units for very low income families.

Although Hoyt has agreed to extend the start of construction time limit to three years to cover any unforeseen contingencies, PHB intends to in late May, early June issue a public solicitation for a developer and plans to start construction within the time frame originally required. The project, once we are ready, will come back to City Council for River District TIF funding authorization in 2016.

Fish: Javier, could you remind us -- within the River District, what are the specific goals that we have to adhere to for that site in terms of affordable housing?

Mena: There are certain CCNRs that are required and I don't have the specifics to what they are, but we have to be within those requirements. That's about it.

Fish: But in addition to the income range -- so since we're using TIF, we're talking about targeting families below 60% of MFI. Within the River District, do we have guidelines, specific priority groups that we are targeting for housing? So individuals, families, older adults or whatever -- have we got specificity like we have in some other districts?

Manning: The River District guidelines don't call out a number of different priorities. I think working with Commissioner Saltzman's office, some preliminary discussions with Home Forward, it is our hope and belief that very low income families would be a great addition to that neighborhood.

Fish: And Traci, how do you prioritize low income families over low income adults or formerly homeless or whatever? You have a substantial need. Is that a priority that has been established within the urban renewal district by the Council through reset or through some other process?

Manning: So certainly, with Commissioner Dan Saltzman but also in addition with Home Forward -- so their board of commissioners has prioritized both very low income families as well as that are in the central city, so what we've come to calm opportunity areas so that children will have opportunities to go to some of the great schools, parks, transportation, experience all that that district has to offer. I would certainly be loath to choose among our tremendous needs in total but that for this project, for this district, that's certainly something that's come up quite a bit.

Fish: Since you mentioned Home Forward, is that because you expect to be able to put some project-based Section 8 into this development to subsidize the rents?

Manning: We certainly had preliminary conversations with them, and I feel hopeful. It very strongly meets their stated goals for project-based Section 8.

Fish: Thank you.

Hales: Other questions? Thank you both very much. Does anyone want to speak on this item?

Moore-Love: I have two people signed up, Lightning and Barry Joe Stull.

Hales: OK, come on up.

Barry Joe Stull: Good afternoon. Barry Joe Stull. I think that honoring the commitment, including buying this property, is a good sign from the City of Portland which my informants tell me has an absolutely horrendous record regarding affordable housing and holding landlords -- which typically have more money than tenants -- accountable. We know that the planning housing for the South Waterfront -- the affordable housing -- was dismal. I think the City's performance on that project was something like 30% in that neighborhood of what was actually promised back in the day. I thought it was kind of ironic when I saw that this piece of property is 10,000 square feet. That's 100 feet by 100 feet. I've been long complaining about the vacant affordable housing with the City's partner, Portland Community Reinvestment Initiatives, and I'll stand by my assessment that's organized crime, Commissioner Fish, as I said in January, and I would appreciate that you don't

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snipe at us public speakers when we present information and we leave the microphone. It's not so you can shoot at us like fish in a barrel. I've done my homework and I know that your plan, of course, is for the rich. That's why the Zidell property is one of your projects. So, I realize we have a housing crisis. We're missing somewhere in the neighborhood of 20,000 to 40,000 units of affordable housing in this metropolitan area and it's because we simply don't construct it. And when we have promises the City of Portland doesn't keep them. And when the landlords or the developers don't do what they promised, the City lets them get away with it. I believe today 4066 NE Grand Avenue, named after Gretchen Kafoury, is still vacant. That's affordable housing on our affordable housing stock that the state of Oregon has listed, but I think there should actually be people living in that affordable housing. So if there's a plan to build on this property, let's have it soon. Thank you.

Hales: Thank you. Lightning?

Lightning: Yes, my name is Lightning, I represent Lightning Watchdog X and Lightning Housing X. I'm glad to see on this transaction that appraisers have been used, again, from my position I also like to have licensed brokers. The reason I like that is to have a separation between various people from the City and also have a licensed broker that can lose their license and they also have ENO insurance in the event they make a serious mistake and we sue them on price. That's why I like to have brokers involved. They are very aware of the risk and they do a lot of homework, a lot of data to prevent -- minimize that risk.

Another issue I saw recently was on a transaction that they came back and had a broker come in and they made an additional two-plus million on the transaction. I want to start watching again these properties very close and make sure that we do obtain the highest values on these properties. I understand again this is within a reasonable market range. Again, I want to make sure that funding goes back within the City, the bureau, the general fund.

My understanding with a little bit of research you do have the discretion from the Commissioners and the Mayor to determine on certain sales where that funding can go upon your approval. That's my understanding. I have been told state law prohibits that. I would like that to be researched a little bit more. Again, I just want to have the ability to see money go back to certain areas if necessary such as on deferred maintenance on other properties, deferred maintenance in transportation, just areas that can benefit the services of the City and I like to have a little bit more restrictions on any donations. I don't think we're a foundation at this City. I don't think we have extra money to be donating. I would like to have individuals from the outside, nonprofits, go to foundations, then come back to the City and pay fair market value based upon an appraisal from a foundation so we're funding more money back to the City and when we start to calculate these transactions on a yearly basis we're talking a tremendous amount of money that can be diverted back to the City for services, for your pensions, for your salaries, which need to be kept in line for your AAA rating on the bond. I have no issue on this transaction. Again, we need more affordable housing, MFI, 30% or lower. We need to focus on the sidewalks, the doorways, getting people into housing, and understanding tourism dollars alone, benefits, the increases, and the benefits increase the distances that will pay these projects off in a relatively fast time frame, and we need to look at that very close based upon data. Thank you.

Hales: Thank you both. OK. Questions?

Saltzman: We do have a representative from Hoyt Street. I don't know if you wanted to say anything? Hoyt Street Properties, excuse me.

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Dina Alexander: Hi, Mayor, Commissioners. Dina Alexander, outside counsel for Hoyt Street at Radler White Parks and Alexander. I just want to first commend the City -- 1999 where the City was at on affordable housing. This is very forward-looking development agreement in terms of a 35% affordable goal. And note that Hoyt Street has done a lot in the district, 30% is very commendable, again, based on when this DA and when their work in the district was started. We just appreciate the City's and Housing Bureau's process. We have abided by the terms of the development agreement and it has gone smoothly and we have worked well with the Housing Bureau, and we look forward to closing this sale and allowing the City to build affordable housing on the site.

Hales: Thanks very much.

Saltzman: I would just like to -- you can go ahead and sit down. I just want to thank everybody on our side of the ledger who's been involved in this deal. Javier Mena from Housing Bureau, Traci Manning, Barbara Shaw, Lisa Gramp in the City Attorney's Office, Shannon Callahan in my office. I would like to acknowledge Hoyt Street Properties for their continued support of affordable housing in the Pearl District and being willing to negotiate even more favorable terms with the City above and beyond what they were from called upon to do in the development agreement. And finally, I'd like to say how pleased we are to have this parcel available to add more affordable housing in the Pearl District. The Housing Bureau will be fast-tracking the development of this property to bring much needed-housing online expeditiously. Thank you.

Hales: Thank you. Good work. Roll call, please.

Item 410 Roll.

Fish: Dan, congratulations, and thank you for your good work and to your outstanding team at the Housing Bureau. Aye.

Saltzman: Aye.

Novick: This is exciting to look at the agreement that was developed 16 years ago and see this piece of it coming to fruition. Congratulations to Commissioner Saltzman and the team and to Hoyt Street Properties, and I'll take the opportunity unto again to express my bitter disappointment that Traci Manning will be leaving us next week. Aye.

Fritz: Thanks. Aye.

Hales: Great outcome, yeah. Sixteen years later with the recession and a boom or two in between, we're making good on long term plan in a good way. Thank you. Aye. We're recessed until 2:00 p.m.

At 1:21 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.

APRIL 22, 2015 2:00 PM

Hales: Good afternoon, the Council will come back to order. Will you please call the roll?

Fish: Here. **Novick:** Here. **Hales:** Here.

Hales: Welcome, everyone. Why don't we read item 411?

Item 411.

Hales: Commissioner Fish.

Fish: Thank you, Mayor. Happy Earth Day again to everybody. We've had a lot of inspiring presentations today, and we're pleased this afternoon to present something that's sort of a -- I would say it's a watershed for our bureau but --

Hales: That would be wrong --

Fish: The worst possible pun. But it's a big deal, what we're here to share with you, Mayor and colleagues. And I want to introduce Mike Rosen and Jane Bacchieri, who are going walk us through it, and I have a few introductory remarks.

Ten years ago, City Council adopted the Portland Watershed Management Plan, which guides the City's approach to improving the health of our urban watersheds. An important part of the watershed plan is developing a simple way to clearly communicate the watershed's health. The Bureau of Environmental Services has been working on that method since probably around 2010?

*****: Yes.

Fish: It's appropriate that today, on Earth Day, the bureau is here to announce the release later this spring of Portland's first watershed report cards. This new tool will show at a glance current conditions in our watershed, will help track changes over time, and will help us plan the kinds of projects that have the most positive impact on watershed health. I'm very pleased to introduce Jane, who will kick it off; and then Mike Rosen, who's done stellar work on this project.

Novick: Commissioner and panel members, I just need to warn you that we've heard a lot of complaints that the system of watershed report cards is leading to teaching to get test, widespread cheating -- [laughter] -- and is damaging to the self-esteem of watersheds. Please address those points.

Michael Rosen, Bureau of Environmental Services: We're not going count the first year's grades. It's an inside joke.

Hales: [laughs] It is an inside joke, but a good one.

Fish: Pay no attention to that, panel.

Jane Bacchieri, Bureau of Environmental Services: I'm trying not to be distracted.

Hales: We'll rule people out of order if this gets any worse.

Bacchieri: Thank you, Commissioner Fish, and good afternoon, Mayor Hales and Commissioners. My name is Jane Bacchieri and I'm the watershed services group manager for the Bureau of Environmental Services. We're very pleased to be here today on Earth Day with a briefing for you about the Portland watershed report cards, which as Commissioner Fish explained is a new tool that BES has developed to communicate about the health of our watersheds.

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Communities across the country are using similar tools to report to citizens and policymakers about the conditions of rivers, streams, and watersheds and to track changes over time. Portland has made many investments in healthier watersheds, from land use planning to the combined sewer overflow program, restoration of the Johnson Creek floodplain, and thousands of Portlanders planting trees and building rain gardens in their yards. All these actions are adding up.

Report cards are a way we can sum up a lot of scientific data and share with everyone what the current conditions are now and where we have more work to do. Before I pass this off to Mike Rosen, I would like to acknowledge the efforts of many very talented and committed staff at BES who worked diligently to develop this tool, and I would like to thank them all, along with Mike.

Rosen: Thank you, Jane, Mayor, and Commissioner. I'm happy to be here today to talk about the Portland watershed report cards. And I have to specifically call out four people. The last six months, we've had to navigate some rough communication and technical waters, and Sara Culp, Jennifer Antak, Jan [indistinguishable], and Chris Prescott have been incredible. They got us there. And I just want to thank everyone who took the time to come out -- and they're all busy -- to come out and testify.

We're rich with rivers and streams. We have 300 miles of rivers and streams in the city, and we have native salmon and steelhead in 127 miles. Each year, Portlanders come out to our watersheds to relax and play. Every year, we have hundreds of people that are coming out to the slough for events like the regatta, and these areas also provide shelter and clean water and food for fish and wildlife. This is a picture -- it's the screen shot of a video from two salmon spawning in Westmoreland Park, and that's a direct result I believe of one of the restoration projects I'll talk about in a little while. It's important to know that every year, each bureau in Portland conducts their work in ways that supports watershed health.

Here's a little history, some of the key events along the way from the start of the implementation of the watershed plan 'til today and then a little bit beyond. The plan was accepted by Council in 2005. In 2008, we started the gray to green program. Then we developed watershed measures. A big effort went into developing a citywide monitoring program. In 2013, we started stormwater system planning. In 2014, we had our first four years of comprehensive citywide watershed data, which is our baseline. We're releasing the report card today, and then in 2018, we'll hit a milestone where we'll have a second four years of data which will allow to us start looking at some preliminary trends.

We collect a lot of data, whether it's vegetative cover, impervious area, and then a ton of individual samples. We have 21 measures for watershed health, and each year we collect 21 samples from 32 locations and then over a course of four years, we have 128 sampling locations. And so the challenge is, how do we communicate what this data means? And typically, we've presented really dense data in a very un-synthesized form, and the people that understand it are the scientists. What we're trying to do is get to the top of this wedding cake and synthesize the data in a way that the public and decision-makers can understand it, reduce its density so it's meaningful to them and they can use to it make decisions.

So, it is sort of a complex process to get from the individual measurements to a letter grade, which is ultimately the report card, but basically what we do is we've done an analysis of the scientific literature and we've determined a range of "not properly functioning conditions" to "properly functioning conditions," but for an urban watershed. So, we're acknowledging that we live in a system that's already impacted because we're in an urban environment. Then we use that information to transform the individual data points

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into a score from zero to 10, and then we convert that score into a letter grade from an F to an A, and that gets us to the report card.

So, why are we interested in producing this information in this format? We're really interested in giving Portlanders a bigger and better picture of our environmental health. As I said, we want to help to frame policy and budget questions. We have information now to show where we have good news and persistent problems. We want to connect the work we're doing to those problems and outcomes that are moving in the right direction. We want to communicate better about our work. And the last point is I think one of the most important: we want people to understand how their actions are impacting environmental health and inspire them to continue to invest in watershed health.

What we thought we would do is show you two separate report cards and highlight an area in the first one where we're doing well and what an action that supports that grade, and then we'll show an area where we have a challenge and what actions we're taking to improve that grade. In Johnson Creek, maintaining healthy surface drainage is a big deal, and one way you do that is reducing the amount of impervious area you have in the system.

This is a project that does just that. It's basically removing asphalt from a church parking lot and it's allowing for natural drainage. We end up with is, through a small investment -- and that's through our community watershed stewardship grant program -- this community developed a project, the St. Mary Ethiopian Orthodox Church, and worked with environmental organization Depave, which helps Portlanders around the city remove pavement and reduce surface runoff, and then the Johnson Creek Watershed Council.

And so, what do we get for that? We enhance the environment, the church ends up with a garden that provides for educational opportunities in the community, and it strengthens the community because it's bringing groups together that might not traditionally work together.

So then we move to the slough, and I've highlighted our habitat score, which is a D. **Fish:** Let's pause there for a second. No one can accuse BES of grade inflation in how they've structured this. You'll see throughout this report a relentless effort to put honest rankings, even in areas where you might be tempted to say, "gosh, can we somehow move that up the scale a little bit?" But I think for this to have an impact, the numbers and the grades have to be credible. And so, I applaud the bureau for the effort to do the tough job of aligning grades in all of these areas, including areas where the grades are not great.

Rosen: And habitat is not just a challenge in the Columbia slough watershed, it's a challenge in all the watersheds in the city. But one of the opportunities that we have in the watershed program is to solve water management problems, surface water management problems, and achieve multiple objectives.

In this case, we have a large area in the slough with uncontrolled drainage to the slough, and we realized there was a large piece of property available that we could use to control that surface water drainage by restoring a wetland. We worked with our engineering group to basically engineer that large parcel of property into a wetland and to receive that surface water.

And so what do we end up with? A really beautiful piece of property that has wetlands and channels to capture runoff. This covers 1600 acres of streets. We deliver cleaner, colder water to the slough. We remove invasives, we plant trees, and then we create a significant amount of habitat for native fish and wildlife.

Here's some context for the report card, because it's a tool and it has limitations. So, it's a conversation starter. We see it as a way for people to take a look at what's going on in the city and start to ask questions about what they can do about it. It's one tool, it's not perfect. It's not always going to be the level of detail we need to make project

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decisions, and it's not just about the work of BES. It's about some things that we can't impact because we're downstream, or we have areas that we can't protect through code.

As I said earlier, every day, the City bureaus have the opportunity and take the opportunity to do their work in a way that supports or improves watershed health. I mentioned that most of our watersheds are downstream. We control a part of the watershed, and so for example, in Johnson Creek, we are the downstream end of a much larger watershed and we basically control the last 20% of it.

And it's about community-based action. It's about what individuals can do in terms of the way they live and how that impacts the watershed.

And then it's not about quick changes, because it's taken a long time to go at this point and so we're not going to see recovery overnight.

So, what are we doing with other bureaus? This is just some examples. We've done a lot of work with climate change through the climate change preparation strategy, where we've shown how systems that support watershed health can build resilience for climate change. We're doing work with -- actually, I wanted to mention that we're doing that work, of course, with the Bureau of Planning and Sustainability. And some other work that we're doing in southwest is we have uncontrolled drainage from our roads where the water going into ditches and is carrying sediment from the ditches into our surface water streams in southwest. But in partnership with the Bureau of Transportation, we're able to put in vegetative swales and even create a paved surface that allows some improvement for people that are allowing the shoulder of roads.

And then finally, Westmoreland Park. The restoration of habitat there is something we've worked a long time with Parks on, it's been supported by the Corps of Engineers. It's resulted in a lot of people coming to the park and a lot of people seeing things they haven't seen before, like spawning salmon. I live in that area and it's really a great source of pride for the community.

OK, so watershed health over time. One thing keep in mind as we start back at the beginning of the industrialization of Portland, watershed health isn't static. As the population increases -- and particularly population density -- we see an impact on watershed health. So, this is a qualitative look at this and some of the points in history between 1851 and now that have impacted watershed health. Of course, the first sewers we constructed as the population discharged untreated water into the Willamette and other surface water systems. It wasn't until the '40s that we started to correct those problems with treatment plants. We had the federal Pollution Control Act which required treatment; Clean Water Act, which required secondary treatment; and then the Endangered Species Act. So, we start to see some recovery. We improve our sewer systems, we take care of our CSO problems, we begin to develop investments in watershed health, we adopt regulations for managing stormwater discharge, we invest in watershed health in a big way from the gray to green initiatives. In the mid-2000s, we complete the CSO program.

And so the question now is, as the downward pressure continues on watershed health, what will our investment be over time? Will that arrow stay flat? You know, no change -- certainly avoiding a downward change is significant, because as I said, there's a lot of downward pressure on watershed health. But another question is, through investment, how fast and how much are we willing to invest to recover watershed health?

Fish: Mike, keep this slide up for a second. Because Mayor, if we give an award every year for a slide from a PowerPoint that is best in class, I would nominate this slide.

Hales: It's great.

Fish: This is like the entire history of the system in one slide with all the information you need correlated to population growth, and it ends with the question mark. But it's with all the milestones. It's really quite extraordinary. And then to see -- to be able to track the

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tangible positive benefits of the CSO program and gray to green, and how it contributed to the upward tick to the point where we are now where we have to make decisions that will impact the next generation -- I think this slide is spectacular.

Rosen: I like it too, and it was created by people much more creative and smarter than I am. But it's a fun way -- I like the way you get this roller coaster effect. [laughter]

Fish: I'm getting dizzy, please don't do that. [laughter]

Rosen: Sorry, I'll go on to the next one. This is a communication tool, and one of the major elements of the tool is creating a web presentation that explains what the grades mean. So, what are the measures that contribute to water quality health or habitat or fish and wildlife? What are the actions that you can take to support them? What are the actions that the Bureau of Environmental Services and other bureaus are taking? So there was a great deal of investment in time and thinking in a way to present this information in an engaging way that would be interactive. And so, we're continuing to work on this. The website will be completed on May 1. But again, it's really about engaging Portlanders and what watershed health means and what the City's doing to protect and improve it. If there are any questions, we can take them now or we can move to the panel.

Fish: Mayor, we have two panels to follow, but happy to take some initial questions.

Hales: Questions? Alright, let's move. Great.

Fish: We have two powerhouse panels that we're going to hear from today. Would the first four people please come forward? Sallie Edmunds, supervising planner, Bureau of Planning and Sustainability; Judy Bluehorse Skelton, senior instructor to Indigenous Nations Studies, Portland State University; Mike Houck, Executive Director, Urban Green Spaces Institute; and Dr. James F. Pankow, member of the National Academy of Engineering, Professor of Chemistry and Civil and Environmental Engineering, Portland State University. Welcome. And Sallie, would you like to kick us off?

Sallie Edmunds, Bureau of Planning and Sustainability: Certainly. Good afternoon, Mayor and Commissioners. As you know, the Bureau of Planning and Sustainability and Environmental Services work closely together on policies and plans related to improving watershed health and making Portland more livable. These plans include the recently adopted West Quadrant Plan, the Climate Change Preparation Strategy, and several plans that are in progress which include the Comprehensive Plan, the Central City Plan and the Climate Action Plan.

These plans are informed by scientific studies and technical works completed by the City over time, such as the Portland Watershed Management Plan and the natural resource inventory. They call for increasing our use of green infrastructure to manage stormwater, restoring floodplains, protecting natural areas, and increasing tree canopy. But this watershed health report card and the data underneath it will allow us to take this planning to the next level because we'll be able to for the first time actually quantify changes in watershed conditions. This information will help us understand the long term impact of our policies, and implementing tools help us to prioritize actions that are tied to specific metrics, and help us communicate important scientific information to the public during our planning processes.

This work connects directly to the 2012 Portland Plan, which includes 12 measures of success, including healthy watersheds, complete neighborhoods, job growth, and equity inclusion. And so this report card includes all three of the components that make up the healthy watershed measure, and those are tree canopy, water quality, and effective impervious areas. It's great timing to have this as baseline to monitor the new Comprehensive Plan, Climate Action Plan, and Central City Plan. And many thanks to BES for developing this useful tool. Thank you.

Fish: Thank you, Sallie. Judy, welcome.

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Judy Bluehorse Skelton: Thank you. Ta'c meeywi, good day. Thanks for having us here. It's really exciting to look at the measurements that the index helps to show, the health of the watershed.

Being at PSU, there's a whole generation who doesn't believe me when I say we never used to pack water in -- we would be camping or traveling or meeting with family, and we drank out of streams. They often question if that's really true. And we can ask -- and I love that one slide, too, Commissioner Fish -- where we track from 1851 to today, what was lost and what are the challenges for the City? I notice behind, I'm reminded -- those two rivers really impact and are wrapped around our leadership.

How do we reclaim that health we once had? We have grad students down at PSU who are trying to put a dollar amount and calculating on what it means to be able to drink water again, to be able to have a healthy -- when we look at watershed health, it's public health. And so I'm excited to see the good efforts in measuring water quality at a time when many communities are saying, "we wish we would have done something like this." I have a lot of students coming up from California telling stories of their communities closing, no water, people praying for water, for rain, they wish they had managed things differently, not having a long term perspective. And so I really appreciate.

It was actually the work of an incredible intern, thanks to the work of Jennifer Devlin and BES who has been placed in PSU's Indigenous Nations Studies program, who's enlightening many of us on some of the issues. How do we reach out a -- to not just a younger generation who says, "will we have water, what would that look like?" -- water as more than recreation or more than entertainment, but taking water back to life. Water is life. And they are worried about whether they'll have life, looking to their neighbors to the south.

Also, looking at the equity issue. As communities come here from countries in drought, countries in war, countries where their way of life is no longer sustainable. So, as this model -- and I'm looking forward to seeing that taken to IRCO other communities of color, refugee, immigrant communities -- I think we're going to get some interesting and resonance on the value of water as critical to life. And I ask us, what would it take for us to all pack up -- children, grandparents, with what we can carry on our back and try and get on a boat and go somewhere elsewhere there's water again or there's the kind of environment that supports life?

These are some of the communities that are coming to Portland, and as we prepare for climate change and prepare for the growth that Mike showed -- Mike really helped me understand that the big challenge and primary message I can see coming from this report as a narrative is that we have 150 years of healing and fixing past bad practices. Whether we look at Willamette Falls -- all the people that love that eel that the Grand Ronde served at the Westmoreland salmon celebration, they were like, "where are you getting this, how can we get more?" And we said, "well, normally, Willamette Falls." So, how do we keep that food system at the same time as we heal the past and prepare for more people to come?

It's an exciting report card, I'm looking forward to more. I really am excited and I ask our leadership to change the message or inspire people to no longer look at water as just a utility that should be cheap, but that it is sacred and it is life. And if anything, we're probably going to be devoting more of our time, energy, and dollars to keeping it healthy. Thanks for having me.

Fish: Thank you very much. Mike, welcome.

Mike Houck: Thank you. Mayor Hales and Commissioners, I'm actually here to represent the Intertwine Alliance, which is 140 partners across the region that are working to expand and protect parks, trails, natural areas, and watershed health and ecosystem health

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throughout the region. Two of our most significant partners of course are the Bureau of Environmental Services and Portland Parks and Recreation, and I want to be sure to thank them for their leadership in helping create the Intertwine Alliance and support it and of course, making a huge contribution -- such as today -- with regard to moving the dial on improving watershed health.

Mike Rosen didn't show one thing on the timeline and that was in 2012, the Intertwine Alliance produced the Regional Conservation Strategy and Biodiversity Guide for the Portland/Vancouver metropolitan region. I gave you an executive summary of that report. In the report, one of the biggest gaps that we've acknowledged in the region which are impediments to improving watershed health is a lack of research and long-term data collection. The watershed scorecard project is another significant contribution the City has made to the region's knowledge of the status of watershed and ecosystem health, and I'm here today again to congratulate the City and BES in particular for having created the scorecard.

Frankly, I've really not participated in Earth Day over the last 10 or 15 years. I haven't been a huge fan of Earth Day, because one of my observations is people tend to come together for a day and then go home. I'm much more interested in the folks working day in and day out. The Bureau of Environmental Services, other City bureaus -- you all really have made a commitment to protecting and improving watershed health over time. This scorecard is a very important tool in that it's not enough to do the work -- we really do have to be able to demonstrate to the public that their dollars are being spent in a way that actually has results. That said, you won't be surprised to hear that I do have some suggestions on how to possibly improve the scorecard -- at least how to utilize it or how it's utilized by the community.

I would like to start out -- there's been a little tension recently with regard to how clean the Willamette River is. The Willamette River frankly is clean enough for people to jump into and do the Big Float. But the message I'm concerned about is that the Willamette River is not clean yet, and this scorecard allows us to talk about the good, the bad, and the ugly and where we need to put more resources.

I was incredibly disappointed that the Greater Portland Pulse removed all natural resource values from the regional scorecard. I think this scorecard gives us an opportunity maybe to go back to the Greater Portland Pulse and reinsert natural resource issues into that regional scorecard.

The scorecard's going go active on the website on May 1st. I would really hope the staff could work with the Intertwine Alliance to ensure that it's at least linked to the Intertwine Alliance website so that it gets broader distribution throughout the region.

This is a huge concern for me. I got involved in trying to improve the Columbia slough 30-some years ago. And I will tell you it took many, many years to convince elected officials, to convince policymakers that the Columbia slough was worth investing in. And it got an F. And I applaud Commissioner Fish's notion that you don't skew results just to make people feel better. However, I would suggest -- just as if you had a kid who was homeless, came from an abused home, whatever, all these horrible impacts prior to going school -- that you would take into consideration the past experiences of that individual. The Columbia slough received an F for habitat. I would say that that F goes to the City of Portland. We need to be honest about what we've done to the Columbia slough in the last 80 to 100 years. And so I'm thing of grading on a curve -- [laughter] -- to get Commissioner Novick's comment, whatever.

What I hope does not happen is that the people who have work do hard -- the Linda Robinsons of the world and so forth -- are not dispirited by this scoring. So somehow, we

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need to be able to convey that no, it may have an F now, but it's much better than it was 20 years ago and we're going to continue to work to get to D, C, and B status.

The final thing is on page 18, the trajectories that Mike noted. The trajectories are all upward -- or at worst, level. This City is going to have how many more people moving to it -- we're densifying, development is going to intensify. I don't think it's realistic not to have a downward arrow with that question mark. And obviously, that points to what are we going to invest? While we're developing and building out, what do we need to do to ensure those scores keep going up? Those are just a few thoughts I had based on the scorecard itself.

Anyway, congratulations. It's a fabulous project, it's going to go great for the region I think and great for the City of Portland. Thank you.

Fish: Thanks very much, Mike. Dr. Pankow, welcome.

James F. Pankow: Thank you, Commissioner Fish, Mayor Hales, and other Commissioners. My name is James Pankow, I'm a professor of chemistry and environmental engineering at Portland State, and I guess that's one of the reasons I'm here because I actively give grades -- [laughter] -- and I've given some As and I've given a few Ds and Fs. And I know it's a sensitive issue, and people don't like to get Ds and Fs, yet it's an important and succinct measuring tool in order to get the communication across as to performance.

So what I teach at Portland State is environmental chemistry, and basically how chemical and biological indicator information can be synthesized as an important process in assessing health in environmental systems. I teach a wide range of students. Many of the students I get are engineers. They don't have a lot of chemistry background, so it takes some communication. Some of them are biologists and so they need communication on the chemistry side. So, it's very important to be able to communicate things on a level that can be understood by the people you're communicating with. So, that's an important issue of training, even with professionals.

Given the significant environmental challenges we face, including climate change, it's obviously critical to find better and effective ways to help public policymakers, elected officials understand complicated environmental data. And in a course, there's a lot of grade information and tests and participation, homework and all that has to be synthesized. And that works effectively in a classroom environment.

So, the challenges are only going to grow. Right now, we've recently passed 7.3 billion people in the world. When I teach environmental chemistry, one number I teach -- I communicate that if they remember one number from my class, it's often that I mention the number 211,000. That's the number of people added to the population per day. So, that's a Portland every three days, it's a mega city of 10 million every 50 days, and we're slated to cross 8 billion in 2015. So, this problem isn't going to get any easier. We have to come to grips with it now, and it's not just about Portland.

What Portland does is important for Portland, but unless what Portland does is communicated to other places, it's not going to matter. Portland will be irrelevant if the rest of the world doesn't follow the kind of example that Portland sets.

So, while the report card process is a necessarily complicated synthetic distillation process, it does a good job of distilling down information into a package that can be understood by the public. These kinds of things have been used before for air quality, there's different air quality indices for status of air quality based on PM levels and ozone that is frequently used by the public to understand whether their air is safe to breathe. And there's different indices, they do different scoring algorithms, but they basically come out the same way and they are relied on reliably by the public.

Regarding grade inflation -- and just expanding a little on Mike's comments -- if there is an F, the public needs to know what an F means and why they should care about

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whether or not it's an F. Some students I have don't care if they get an F. So, part of communication process of the report card scale is to make it clear to the public what the poor grades mean, because once I think that communication takes place, it is much easier to find consensus.

Lastly, I think it's a two-way street. The public is interested in knowing the status of the environment, and if they can be encouraged to participate by understanding better what's going on, that's a good thing. By the same token, that will reinforce motivation on the part of people like BES and researchers at Portland State such as myself to do a better job of finding the right measures and then communicating them in a way that is useful. Thank you.

Fish: Thank you very much, Professor. I will note in the handout that Mike gave us that my favorite section is entitled "Green Infrastructure: Efficient, cost-effective, and meets many objectives." I would say that's pretty good communication about the many benefits of green infrastructure.

And to your point about an F -- and I think Mike Rosen mentioned -- part of our goal is to inspire people. If we give something an F and people feel crappy about the work they've done, that doesn't inspire them. So it's intention, and we'll take your testimony and comments to heart. Thank you all very much.

We have one more panel, Mayor. Faduma Ali, community organizer and director of Portland Harbor Community Coalition Groundwork, Portland; Bob Sallinger, Conservation Director of Portland Audubon; and Marianne Fitzgerald, past president of Southwest Neighbors, Inc., which as you all know is the umbrella organization that represents three members of Council, all residents of Southwest Portland.

Fritz: Commissioner, I apologize for being late. Was there a handout at the beginning or a copy of the report? We're kind of short staffed in my office this week and I don't have the actual report.

Fish: It was the PowerPoint.

Fritz: I don't have that.

Hales: I didn't get that, either. I saw his slides but didn't get a copy of them. It'd be good to have later.

Fish: Pass that out later.

Hales: OK.

Fish: Faduma, welcome.

Faduma Ali: Good afternoon, Mayor and Commissioners. My name is Faduma, I'm with Groundwork Portland, a nonprofit organization that brings about sustainable community-led improvement of the physical environment of low-income areas while advancing environmental and social justice. We have a couple programs that we're working on. The Portland Harbor Community Coalition is one of them, the brownfield program, as well as our Green Team.

The Portland Harbor Community Coalition ensures that the cleanup of the Willamette River has an equitable outcome for all communities, including environmental justice communities who are disproportionately impacted by the Portland Harbor contaminates, as well as the brownfield program which builds awareness for and educates community members as to why brownfield redevelopment is important to economic development, land use, and growth strategies. We also have our Green Team. Green Team is the new generation of change and the folks who are going to be living after to help build the environmental movement we need in our city today.

What we are very much interested in is how do we communicate the information of that the BES as well as the City has about environmental issues to communities that are oftentimes not at the table and how should we do that? It is currently a question we're

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asking many communities and developing strategies to make sure that folks understand they can be part of the solution in anything they identified through the watershed report. We find it to be very helpful tool to create that can help communities establish an understanding of what's going on within their neighborhoods, and also be part of the movement of change.

After reviewing the report cards, there are a couple of suggestions important to equity and environmental justice that we kind of explored, which is economic benefits of watershed restoration which needs to be elevated, environmental base employment, and the opportunity to scale to career tracks in our region as farming. Also, using the report card to track employment and workforce opportunities.

Community feedback loop is also very important -- ways to guide people to the actions and response to the grades given to specific areas. What action at those sites can be taken after it was graded F or if it's graded D -- what does that mean for community involvement -- as well as engagement for habitat restoration and related career experience and engagement and making sure that information is also translated, other materials translated in top five primary languages spoken in the city.

So, these are some of the hopeful information that we're hoping to gain from the watershed report, and also engaging communities in the process. We find community engagement to be one of the things that we would like to make sure that we do in all of the aspect of work that we do at Groundwork Portland, as well as just motivating people to take action within their neighborhood. Because at the end of the day, a chair cannot stand on its own, there's four parts to it. And community work, community involvement is what we see as an important key priorities in our state. Thank you all.

Bob Sallinger: Good afternoon, Mayor Hales and members of the City Council. My name is Bob Sallinger, I'm Conservation Director for the Audubon Society of Portland. Good to be before you again today.

First of all, I want to congratulate Mike and Bureau of Environmental Services for the work on this, I think they did an outstanding job and I think it's an impressive product that will actually help translate some very complicated issues into something that will be much more accessible to the public and also provide a better roadmap of why we're doing what we're doing and where we're trying to go to.

I think the fundamental message that we can take away from this is that what we're doing is making a difference. I mean, that chart really does show that these major initiatives that we've taken on have moved the needle in a significant way and that we're on the upswing. It also tells us we have a long way to go, and that in some areas, we have a very long way to go -- and I think particularly with habitat and biodiversity, which rank very, very low across the board still. We have big challenges. We're making progress, we're doing good work, but we have challenges before us.

So, a couple of things I just wanted to highlight in terms of thoughts about this report. One is taking advantage of stakeholders and partners and really connecting back out into the community. One thing we have seen in that last few years at BES is a little less public involvement in developing these things. I think BES historically has been one of the most interactive bureaus in the City. We've gotten away from that a little bit, and this report does reflect that. I think they did a great job, but to some degree it's come from the inside and I think it would benefit from a stakeholder community.

I think a lot of BES' work has benefited and a lot of these big initiatives were successful because stakeholders were very deeply engaged with them, bought into them and owned them along with the City. I think this kind of work also needs that. It helps inform how the report rolls out, helps spread the word more quickly because your stakeholders are part of the process, and I think also ground truths different aspects of it.

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There are different pieces of this we would love to weigh in on a little more deeply at some point and say, did you think about this in this way, or perhaps this in a different way? It might be more effective. But again, overall I think it's a very good product and we're very supportive of it.

Secondly, we need to think about what the next generation of big initiatives is. You can really see those milestones where we came together and developed a big initiative that was a five or 10-year effort and how that changed things. Right now, we don't have that in front of us and we need to develop that, we need to develop the next generation of what the big things are that we want to do going forward. This report is a great launching platform for that. It tells us where we really need to focus and also allows us I think for the first time to start to say, "and if we do x, y, and z, we can go from a C to a B. And our goal is to get to a B by, say, 2018." We can start to hold ourselves accountable in a way we haven't been able to historically. So, that's very exciting.

I think we need to look at the low grades and every time we do a community plan or a district plan, really focus in tightly on those. It gives us the opportunity to be much more specific in terms of what we want to accomplish in different geographies and almost work backwards. If we want to get to a B, what do we need to do in this district plan to actually get there?

I want to emphasize partnerships. I think BES has been so successful because it's been one of the most effective bureaus in the City of developing really, really strong partnerships, whether it's with groups like Audubon or Friends of Trees or Depave. So, what pieces of this report can we look at and say, you know, "we should be investing more in Depave or Friends of Trees or some new group" to really get this work done perhaps more cheaply, more efficiently in partnership with the City. So, those partnerships are critically important going forward.

And the last thing I would say is we'd echo Mike, which is the arrows all do go up but it is possible to go down, and we have some difficult decisions in front of us, some really big decisions in front of us that could actually tip that needle in a downward direction. You know, it doesn't have to be all up, it's not necessarily going to be all up, and I think we need to think very carefully about some of these big decisions that could start us on a downward stretch that could be hard to recover from with the populations increases that we're going to see going forward.

I guess I'll just leave you with I hope the next step after this report really is to bring in stakeholders -- as Faduma has talked about, more diverse group of stakeholders than we've probably had historically -- but bring them in and let's figure out the next big set of initiatives is going forward.

Fish: Thank you very much. Marianne, welcome.

Marianne Fitzgerald: Hi, my name's Marianne Fitzgerald, past president of SWNI, and we are one of those partners with BES and thank BES very much for the funding that enables our Southwest Watershed Resource Center to do the good work that it does.

As a little side note, some of you may know I worked for the Oregon Department of Environmental Quality for 31 years, and there are many people like me with a passion for protecting and improving the environment throughout Southwest Portland. As a little trivia, in 1938, it was an initiative petition by the citizens of Portland that funded the first sewage treatment plant. So, it took the citizens to take action to get the elected officials to fund these water quality improvements that we've seen over time. I'd like to suggest that perhaps the next initiative could be continued partnerships with PBOT and the Bureau of Environmental Services to better manage stormwater along our streets in Southwest Portland. It's a huge issue, it's very evident in the report card that I've seen, and I think

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we've invested in the underground injection, the East Multnomah County, the Big Pipe, and so Southwest's turn is next.

So, back to my pre-written comments. In Southwest Portland, we have poorly drained soils, steep slopes, sensitive natural resource areas, and we need context-sensitive solutions to water quality issues in the watersheds. The work of the Southwest Watershed Resource Center helps Southwest Portland improve water quality and is integral to helping the bureau meet its stormwater MS4 permit obligations. Since its establishment over years ago, our one staff at the Watershed Resource Center has helped to provide residents with technical information and referrals for invasive plant removal, native plant landscaping, stormwater management, natural gardening, and other practices that enhance the health of local watershed.

Our staff support 14 watershed stewardship groups in Fanno Creek, Tryon Creek, Stephens Creek, and other Willamette sub-watersheds within Southwest Portland. We partner with public and private schools, communities of faith, the African Youth and Community Organization, and other community partners and leverage with other partners like the West Multnomah Soil and Water Conservation Districts, the state parks and rec department, Metro, and others to secure grant funding and develop cost-effective watershed restoration projects, including projects on private property, which is essential and complements the work done that the bureau does on public property throughout Portland. Residents are motivated to join BES in restoring the watersheds because it has a tangible effect on our community health and livability.

SWNI's Watershed Resource Center has leveraged almost \$200,000 in the past three years to remove invasive species, plant natives, manage stormwater, and improve riparian areas, which we believe will contribute to more green scores on the report card. But as several of you noted today, the volunteers need to see the results of their efforts in order to continue the momentum of their volunteer efforts.

Last year, when I was looking through the bureau's website for water quality data and trends, I found it buried within technical reports to DEQ and virtually impossible for the lay reader to interpret. I know enough about the data to find it, but it took me a long time. So, we're very happy to see this data become much more accessible. And to have it color code so people that are not so into the data can see it at a very simplified level. And we also hope to we'll be able to drill down so that the geeks like me will be able to access the data at individual locations and do some of that cause and effect analysis, like Bob described, so that we can try to target our efforts and our grant applications to where we think it will be more useful.

So with that, I think I have celebrated Earth Day, I've organized events for Earth Day, and I just want to say I'm pleased to be talking to you about this new index today as a step forward in helping us and our community prioritize resources and channel volunteer resources to protect our watersheds. Thanks.

Fish: Questions?

Hales: Thank you all.

Novick: Marianne, I just wanted to say that, as you know, Commissioner Fish and I are both keenly aware of the need to look for innovative solutions on stormwater management partly because if we can't find that, then the cost of putting in new transportation infrastructure is prohibitive. So, it's really good that people like you and Al Iverson in Southwest are ready to collaborate with the bureaus and figure out new approaches.

Fitzgerald: Yes, we're very happy.

Fish: Thank you all very much. Folks, do you want to come back for a sec, Mike and Jane? That concludes our formal presentation. Karla, do we have people signed up?

Moore-Love: I do not.

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Hales: Anyone wanted to speak on this item in addition to the team we've heard from?

Fish: Any additional questions for the authors of the report?

Fritz: I have a very technical question and that's on page 14 on the PowerPoint for the scoring for the Columbia slough. It says that the macroinvertebrate score is not applicable. Why don't we have a number for macroinvertebrates in the slough?

Bacchieri: We have someone who knows the answer.

Fish: We knew that question was coming. [laughter]

Saltzman: Tell us what a macroinvertebrate is.

Fritz: A bug. It's a big bug.

Novick: For the benefit of Commissioner Novick, can you explain what the macroinvertebrates are?

Jennifer Devlin, Bureau of Environmental Services: Macroinvertebrates are basically insects that live in the water column of the substrate of streams. So, our index for macroinvertebrates was created really for streams that have ripples and pools, your typical stream system. And as we know, the Columbia slough is a very unique system, where it's slow water and has a lot of sediment in it. So, the scoring that we have for macroinvertebrates just doesn't really apply to that system, so if we were to use it, it would bring the score artificially low.

Fritz: It has different kinds of bugs there.

Devlin: It has different kinds of bugs.

Fritz: Thanks very much. And if you could get me later the scorecards for the other three watersheds I'm really interested to see.

Rosen: Yes, definitely.

Hales: Yeah, I'd like to see that too.

Rosen: Yeah, we will.

Fish: So Mayor, I would just move the report.

Fritz: Second.

Hales: Let's take a roll call.

Item 411 Roll.

Fish: I really want to thank Mike and Jane and the team for their hard work, not just the many years of preparing the index, the many months of preparing the PowerPoint and bringing this home. This is a significant milestone for our bureau. And while I think the general consensus of the people who testified today is this is a very positive thing, I also heard some constructive feedback about ways we can make this data more accessible, how we can engage our partners in a more dynamic way, how geeks like Marianne could drill down and get additional data to do their own analysis, how we can make it as interactive as possible so that we're in a conversation with the community and updating our information. I think even a cautionary note from the good professor that sometimes an F is just so inherently discouraging, we have to think about whether that's the appropriate message.

But the big picture -- and I go back to that slide that I think is the heart of your presentation today -- the big picture is that for 150 years, Portland has been on a journey, and once upon a time, it was on a downward arc and it had potentially disastrous consequence for the health of this community. And we're now on a pretty sharp rebound. I actually like the admonition both that Bob and Mike shared with us, that while the three arrows that we have in our presentation still seem to defy gravity, that's not inevitable, and that the kinds of decisions we make -- that if we don't continue to make wise decisions and good investments, there's nothing inevitable about the line going north or northeast.

So much of the work, Mayor, that this bureau does kind of happens under the radar, and I think there's an expectation that BES does excellent work and hits their mark, but I'm

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very proud on Earth Day that my colleagues get to see really some of the best people in the bureau doing some of the most innovative work and we have a chance to thank them for what they are doing. And perhaps also reflect on, what is that next big challenge? What is the next big step that we as a community and Council can get around that continues the progress we've made over the last 30, 40 years? Thank you all very much, I'm pleased to accept the report. Aye. Oh, and I want to thank Jim Blackwood of my office for his work as well. Aye.

Saltzman: Well, Commissioner Fish, this watershed report card is such a great idea, I don't know why I didn't think of it when I was in charge -- [laughter] -- unless Mike Rosen had it under wraps all these years. But it really is such a great tool, it really is such understandable tool. I know having been around BES a long time, we talk a lot about water quality in terms of the dissolved solids, biochemical oxygen demand -- all these things that are very important -- temperature. Most people -- it's all Greek to them. So, putting it into a letter format report card and serving as the starting point from which we can then measure hopefully our progress as we get better with our watersheds. It's a really great tool. I look forward to seeing the report card on May 1st, and thank you very much. Aye.

Novick: This was a terrific report, and many thanks to the BES team and to the community stakeholders who testified today. I have to say, that was a tremendous slide. I happen to think the asset condition slide and the asset management condition report is pretty good, too, but I think maybe literally we should take up the idea of having a "slide of the year," sort of Oscar nominations for slides --

Saltzman: Innovation --

Fritz: Innovation fund, right.

Fish: We could ask the Auditor to judge them.

Novick: Right -- [laughs] --

Fritz: -- 52 citizens.

Novick: Thank you very much. Aye.

Fish: By the way, I just got a text from Brad Schmidt. He's at the City archives. He in fact found a memo from Dan Saltzman suggesting this 10 years ago -- [laughter] -- so I just want to say that in fact it was your idea, Dan.

Fritz: Commissioner Fish, you continue to make the utilities not only more understandable but more interesting I think for many of us. This is the slide in question. I'll just note that right here, right before the upswing is where I got involved. So, it just goes to show there's necessarily a correlation. [laughter] It particularly marks the stormwater management manual adoption in 1991, I believe it was, or '92, which Mike Houck, Bob, others worked on diligently and I think was a turning point in our City's management and recognition. This morning, we were looking at the slide show about swales and we had the first swale along our local improvement district in the entire City in Southwest Portland in my neighborhood. It's not as good as the ones we're doing today, let's just say, that but it was a start.

So Mike Rosen, you've been involved in this for so very long, thank you very, very much. I want to mention some of the other staff. Jennifer Devlin is here today, but Lana Danaher and Amin Wahab and Ivy Francis and Patrice Mango -- some of my heroes who when I was a fresh person getting involved in watershed issues in deep Southwest Portland were kind and explained what a macroinvertebrate is. I never got very interested in tracking the number of macroinvertebrates in my neighborhood because I don't like bugs, but I got very interested in checking water quality, and that kept me busy for many years.

Thank you for these report cards and for the fact that you're collecting this data. I'm very impressed that you knew the answer to my macroinvertebrate question. [laughter] I usually like to ask my questions ahead of time, but you've got such a great team here that

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you know what you're doing and you're able to explain it to people in a very understandable way. It's terrific.

One final comment. My older son is a high school social studies teacher. It's currently getting towards the end of the grading period, and so he spent last week emailing all the parents in his classes, and some of his classes have over 40 kids in them -- so that's a lot of emailing -- to tell them "your son our daughter is failing, and here's why." Because they have moved to this performance-based system where if you don't turn in your work at all, you're get an F, and as soon as you turn it, in you don't get an F. And so it's been really motivating. He's been getting emails back saying, "thank you for letting me know. I will make sure that John or Jane gets their work in."

So, this is partly your report card to us as to how are we doing as the parents who are overseeing the bureaus and the community organizing that is going help get things done. Because government can't do it all and government shouldn't do it all, so it needs to be a partnership with all the watershed councils, with the neighborhood organizations, with the immigrant refugee communities and others, with our native communities who so clearly understand the sacredness of our earth and our water. It's all of us together. Thank you for bringing that today. Aye.

Hales: Great report. You know, we were talking about data in a complete different context this morning, but it was actually about information technology projects, of all things. But in both cases, the ability to produce these kinds of report cards or dashboards and put them on the web -- as you're going do -- is really a important public information function, and hopefully a volunteer motivator.

I take the point about you don't want the situation to look so tough that people don't want to get involved. And so maybe one of the things you can do and are already planning to do is not just have the report cards and the scores, but also be able to link to case studies of "why did this number move?" Because if people know what the slough used to be like and what it is like now and what people did to make the changes, then they're going get inspired.

You and I shared the same neighborhood park, Westmoreland Park. The case study of the free flowing stream there, and the restoration of the free flowing stream and the salmon run there is an amazing accomplishment. It's a huge teaching tool for the whole agenda and hopefully motivates people to think about the stream in their neighborhood that maybe hasn't gotten to the condition yet. So, I think the combination of this kind of visible, understandable data and stories of "here's how Portland did this" is enough to get the next generation of activists engaged, or at least important to getting the next generation of activists engaged.

I think over time -- it's not just one report card or two -- but the practice of this is going to matter, especially -- again the inability of people to necessarily get as complete a picture of city as they used to from the media -- their ability to get this kind of information directly, clearly, unfiltered -- if you will -- but also the back story of "how did that happen? Why is this problem so bad? And what could Gresham do to help with Johnson Creek?" You know, there's a lot of opportunities to bridge out from this tool itself to a larger agenda, and I think you're already obviously on those paths now. Thank you. Good work, and it'll be good for years to come. Thank you very much. Aye.

Fish: Mayor, can we take a three-minute break?

Hales: Yes, we'll take a brief break and take our other time certain item.

At 3:06 p.m., Council recessed.

At 3:09 p.m., Council reconvened.

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Hales: Let's resume and take up Item 412.

Item 412.

Hales: Welcome. Good afternoon, Auditor Caballero.

Mary Hull Caballero, City Auditor: Thank you. Good afternoon, Mayor and Commissioners, I am City Auditor Mary Hull Caballero, and with me today from office are Ombudsman Margie Sollinger and Hearings Officer Gregory Frank. I'm also joined by the Dante James, the Director of the Office of Equity and Human Rights.

It is fundamental to good government that people who are materially affected by government actions are afforded the opportunity to contest them. Sometimes due process is required by law, and other times we decide to extend it based on a broader sense of what justice and fairness and require.

The particular avenues to contest a government action are established by City Council. You and your predecessors have created nearly 200 appeal options throughout City Code, roughly 70 of which direct appellants to the hearings office, which is located in the Auditor's Office.

The purpose of providing administrative appeals is to create value for the public and the City through increased transparency and accountability. A cost-effective venue for disputes to be aired reduces the need for them to litigated in court or the media, which are alternatives which often reinforce perceptions that government can't be trusted to treat people fairly.

Appeal hearings provide other benefits as well. They can serve as early warning signs when policy implementation needs corrective action. They also can act as a check on bureaus if discretionary actions lead to unfair outcomes. Those benefits are undermined, however, when barriers keep the public from accessing their appeal rights. One barrier is not knowing an appeal right exists or how to exercise it. Currently, there is no standard requirement that bureaus notify people that they can appeal a decision. Another obstacle is the cost of admission. In some cases, bureaus charge more than \$1300 to the person who wants to appeal, a fee that is often higher than the amount in dispute.

Our purpose today is to enlist your help in clearing the path to administrative appeals and ensuring that the intent to providing them is not subverted. It is up to the people who are materially affected by an action to decide if they want to challenge it through an established review process. They can't access an appeal right granted by Council if they don't know it exists or if the fee is unaffordable or economically irrational. An untenable consequence of these barriers is that people of modest means are disproportionately harmed, effectively closed off from their right to be heard.

In my role as City Auditor, I intend to bring attention to these types of inequitable outcomes and make recommendations to help the City move closer to its equity goals. I confess I didn't expect to find such a pressing example in my own office, and I appreciate the Ombudsman's persistence in finding a solution.

More than 20 years ago, our predecessors entered into an agreement to locate the City's hearings office in the Auditor's Office. Although it acts on behalf of Council, the hearings office needs an independent home and an administrative support, which is provided by my office. I believe this arrangement is beneficial, but the Auditor's Office cannot continue as a partner if the inequitable outcomes and obstacles to justice are not removed.

With that in mind, I am proposing changes that will remove the barriers, ensure the intent for providing the appeals is achieved, and fully realize the important institutional and public benefits associated with them.

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Ombudsman Sollinger will now walk you through the proposal and respond to concerns we heard during its development. She will be followed by testimony by Director James and Hearings Officer Frank. We also have four guests to address the Council, and I will introduce them after we take any questions that you have.

Hales: Thank you.

Margie Sollinger, Ombudsman, Office of the City Auditor: Good afternoon. My name is Margie Sollinger, I'm the Ombudsman for the City of Portland. And I have to say, after the Oscar award-winning PowerPoint before this, I feel like this slide this might get a razzie -- [laughter] -- but hopefully it does the job.

Hales: You can go for best supporting data or something. [laughs]

Sollinger: There you go. So, the main components of the ordinance before you today are creating a minimum notice requirement that applies citywide, and limiting the filing fees for appeals that are heard by the hearings office. It's important to note these components have different proposed scopes. The minimum notice would apply to all 200 or so appeal avenues within the City, and the fee cap would apply just to the 70 or so that go to the hearings office.

Before I get into the details of the ordinance, I want to take a step back first and provide some general background information. I'll also discuss problems with the status quo, offer some specific examples, and answer any questions that you might have.

Administrative appeals exist for most of the bureaus and functions that interact directly with the public. There's a lot of variety in how these appeals are structured both across and within bureaus. I'll show you a few examples just to give you a sense of what they look like, and they're all going to start the same way with a bureau decision that triggers an appeal right.

This first one is an example of an appeal process that can eventually end up at Council. One example that you might be familiar with are the noise variance appeals. They first have to go through some sort of a review board decision, and then the person can challenge that before Council under Title 18. Another example are the sidewalk assessment remonstrances. Under Title 17, they follow the same structure.

This next example is of an appeals avenue that goes to an appeals board or commission. These boards and commissions are generally comprised of staff or volunteers, or a hybrid of the two. Under this structure, the first level of review would go to the bureau or division director. One example that uses the structure are the protests of certain contract awards under Title 5. Another example are the fire marshal appeals under Title 31.

This slide shows the two different ways appeals can get to the Auditor's hearings office. The left side shows the more indirect route, where there is a bureau-level review prior to an appeal to the hearings office. An example of this is when somebody wants to dispute their utility bill. They can bring that complaint to the administrative review commission, and if they disagree with that determination, they can go on to the hearings office.

On the right side of the slide shows the direct appeal to the hearings office. This might happen when the chief traffic engineer might revoke somebody's parking permit, and then they could take that challenge to the hearings office directly.

The problem with the current landscape of appeals is that there are no baseline standards to ensure that all of these different appeals -- no matter how they're structured -- are still accessible. Right now, there's no baseline requirement that the City actually tell people when they can appeal something. And in the absence of minimum standards, there's a wide variety of practices.

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This is an example where notice was not given. And this is a typical letter that goes out when the Bureau of Environmental Services charges a property owner for a sewer connection. It's basically just a bill that says, "you owe the City this amount, you have to pay within 90 days, and here's where to send your payment." This charge by the City is actually appealable, but there's nothing in this letter to indicate that City Council has given the property owner the right to appeal. One of our invited presenters today has personal experience getting this type of letter, so I'll let him describe in his testimony what he had to go through to access his appeal process.

Exhibit A of your package is your proposed solution to this problem and contains a new chapter for Title 3 setting out a minimum notice requirement. I'm now walking through the main components of it. There's a definition section which explains the scope of the requirements application. It's meant to apply to any code or rule-based chance the public has to apply to a decision. It does not apply to land use because notification is already governed by a complex regulatory scheme, so on the advice of the City Attorney's Office, we exempted it.

The two main elements of minimum notice are just that it's timely and adequate. Timely just means we want to tell people about their right to appeal right around the time the right is triggered. We want to avoid telling people right before the time to appeal expires, after it expires, and we really want to avoid not telling people at all. Adequate notice just means that we're giving people enough information about the underlying decision so that they can determine whether or not they want to challenge it, and we also tell them enough information about logistics of filing an appeal so they know how to invoke it.

We've proposed language in Title 22 that gives the hearings office the ability to enforce the proposed notice requirement for appeals that go before it. Actually providing this sort of minimum notice should be easy and inexpensive. Some bureaus already do it well using a standard letter. I know this is hard to see, but this is an example from the Bureau of Development Services code enforcement program. In this type of case, the property owner would get a three-page letter. The first two pages are the notice of violation, including a specific list of violations, and on the right side is the standard information sheet that accompanies the notice of violation. I'm going to magnify that section on the next slide.

This part of the information sheet describes the first step of the appeals process, which is an administrative review. Here it tells you about the right to appeal, it tells you how much it costs, how many days to file, and where to file the appeal. So, that's minimum notice in a nutshell.

I'm going to switch gears now and talk about the appeal filing fees. So the problem with the status quo on this issue is that there's no codified requirement that an appeal filing fees be set at an affordable or reasonable amount. Currently, the cost to the public to file an appeal varies widely, and the filing fee for some appeals is over \$1300. To put those fees in perspective, it costs significantly less to file for a circuit court writ of review, which is around 250, and it costs four times less to petition the United States Supreme Court than to appeal some of the City's administrative decisions.

These fees mean that many members of the community cannot afford to use their appeal rights, even if they do know about them. 36% of Multnomah County residents do not have enough income to meet their basic needs, let alone afford the City's appeal fees. Put another way, for a person living below the federal poverty line, they would have to pay more than 11% of their annual income in order to appeal some types of City decisions. And for someone like the Auditor, who makes the big bucks, it would be the equivalent impact of a \$12,188 fee.

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The ordinance before you today is focused on the fees for the hearings office appeals, because that's where we're seeing the highest fees charged to the public and because we think the fees are largely driven by the funding structure of the hearings office, which I've tried to outline on this slide. The way it works generally is that the hearings office has to use an internal cost recovery model for appeal hearings. Going from left to right, you'll see that the hearings office charges the bureau for an appeal hearing. The 1368 at the top is what the hearings office will charge the bureau for fiscal year '16 and represent 75% of the hearing costs to the Auditor's Office. Some bureaus are passing along some of those charges to the public in the form of an appeal fee.

Here's some of the differing amounts bureaus pass on. It shows kind of the full spectrum, with police not charging any fee at all going all the way up to a full cost recovery fee for Water, Environmental Services, Parks, and Development Services. For those bureaus passing along 100% of the internal charges, that means in order to access the appeal process, the individual member of the public has to pay for all the costs associated with the hearing. That includes things like judge's salary, rent, electricity, office supplies.

I want to give you a real case example of the sort of thing that happens under our current system. My office heard from a woman who earns a living as a school bus driver. She was enrolled in the utility bill low income discount program, and this is a safety net program that allow a one-person household making less than \$1800 per month to receive a discounted bill. The Water Bureau rightfully wants to protect the program against fraud, and for this particular woman, the Water Bureau identified what they believed were some account discrepancies related to water consumption and number of household occupants.

After conversations with her that did not resolve their concerns, the bureau decided to terminate her from the discount program. This woman felt the bureau got it wrong and wanted to appeal. But to challenge her determination by appeal up through the hearings office, she would have to pay over \$1300 in appeal fees to the bureau. They were asking that amount from someone the City knows makes less than \$1800 per month. Now to their credit, when I brought this issue to the Water Bureau and the Commissioner's attention, the bureau agreed to set an interim fee of \$50 until we could come up with a permanent fix, which is what we're proposing today.

The current appeal fees are not just a problem for people who are low income. Many times, the cost of the appeal fee is greater than the underlying amount in question. This slide shows an example of that happening. This is a sample letter issued by the Bureau of Environmental Services enforcement program. A corporation in this instance discharged really terrible things into the waste stream in violation of their permit, and in this letter, the City is demanding compliance and proposing a \$500 penalty. To challenge the penalty or get it reduced through the hearings office, the corporation would have to pay an appeal fee of over \$1300 to the bureau. And even though the corporation could likely afford it and even get a full refund if it prevailed, they still would have to bet \$1300 to avoid losing up to 500.

Fish: Sorry -- it's important I think that we make clear what you just said, which is if a corporation -- and I'm going make a distinction later between corporations and individuals - - if the corporation is successful in the appeal, then they get their appeal feet back in addition to whatever other damages they are eligible for.

Sollinger: This slide takes the anecdotal observations a little further. You're looking at the number of nuisance abatement appeals over the last 10 years, and these come out of the Bureau of Development Services code enforcement program. The red arrow marks the spot where the bureau started imposing a full cost recovery appeal fee, which at the time was around \$1200. You'll note that the introduction of the cost recovery fee corresponds with a pretty precipitous drop in the number of appeals to pretty much zero. The one

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appeal that you see for fiscal year '10 -- right where the red arrow is -- was underway prior to the fee being adopted by Council, so my guess is that it came in under the prior fee structure.

Fritz: Do you happen to have the numbers as to how many nuisance abatement citations were filed in those years?

Sollinger: I don't know the appeal rate, no, I don't have the base number.

Fritz: I'm totally with you on the point of where you're going on this. I know that the City cut nuisance abatement staff during the recession, so that might be because we weren't actually citing people for many reasons.

Sollinger: Right. This does not establish causation but possibly a correlation. Exhibit B of your package with Title 22 revisions is the proposed solution to the hearings office appeal fee problem. The proposed revisions include setting a nominal fee cap for any appeals going to the hearings office under Title 22, and creating a low income waiver option for those who cannot afford even a nominal fee.

On this slide, I'm going to illustrate how this proposed ordinance and the Auditor's companion budget ask would solve the funding structure problem that's driving these high fees. So, going from the hearings office to the bureau, this part of the equation is the budget ask. For code appeals to the hearings office, we want to stop using an internal cost recovery model and fund the hearings office with general fund dollars. This would eliminate the direct charge to the bureau.

Going from the bureau to the public, this ordinance proposes to prohibit bureaus from separately charging a filing fee for appeals to the hearings office and instead, the hearings office would charge no more than a nominal filing fee directly to the public. This revised structure would address both the financial barrier to bringing an appeal to the hearings office, and it would make it so that the bureaus would not have to absorb cost of each appeal.

Adopting this proposal would bring the City into conformance with what we've generally seen in other cities that have a similar hearings office and hear similar case types. For example, cities like Seattle, New York, Washington D.C., and Cincinnati don't charge any appeal fee. Albuquerque was the one exception we found, which charges 50 bucks.

The last thing I want to address is a consistent question about the ordinance that I've heard from bureaus and some of your offices. That question is, "will making appeals more accessible result in a flood of appeals, especially frivolous ones?" We don't really know how many more people will appeal if the process is accessible, but we have a few reasons to believe that a flood of appeals is unlikely. Even without access barriers, appeals are burdensome and stressful. They require time, preparation, and sometimes money if somebody hires a lawyer. We also have examples within the City already of low-cost, well-noticed appeals that have not resulted in an overwhelming flood of appeals. Both vehicle tows and park exclusions are examples where the City provides notice of the right of appeal and does not charge any appeal fee. This slide shows the last three calendar years of data, and for both type was appeals, the appeal rate is less than 2%. To borrow a quote from U.S. Supreme Court Justice Stevens regarding a similar floodgate of litigation concern, "doing justice does not always cause the heavens to fall."

That being said, even if there was a flood of appeals, erecting barriers is an inequitable way to regulate appeal volume. Once an appeal right is created, it should be available to everyone who wants to use it. Instead, there are other more equitable ways to manage volume of appeals. On the front end, Council can make sure that the appeal right is properly scoped, and on the back end, procedural rules and case management

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techniques are available to manage the flow. Council can also create targeted consequences for appellants that actually bring frivolous appeals.

Finally, I think it bears mentioning that a lot of appeals wouldn't necessarily mean that it's too easy to appeal. Rather, lots of appeals might signal a problem with the policy's implementation, and that's information the bureau could then use to improve City services. With that, unless there are questions, I'll pass it over to Dante James.

Fish: I guess I have just a question -- and just a philosophical question. I think the access to justice question is obviously, in terms of my value system, very important. And reducing the barriers to people having the right to have a fair hearing -- so, uniform notice and done in a certain kind of way I think is spot on. Reducing the cost and addressing what is really the inequity in the current way we structure it, where we tally up all our costs and we divide it in a certain way, so we end up charging people more than they can afford to exercise a right.

The concern that I have, though, is that -- is not that the average person would abuse this system or that a low-income person who feels they've been mistreated is going to abuse the system. My concern is with the people that are abusing the system, and they tend to be large corporations that are big wrongdoers that go into these processes and, as a result of their appeals, impose enormous costs on the system in terms of staff time and administrative appeal time and hearing officer time. And I don't want to sound cynical, but I'll be cynical for a second. It's my impression that in a number of these cases, it is solely done in order to run the clock out and buy some time.

These are not people for whom a reasonable fee structure is a barrier, and these are not people that end up asserting what we would all consider to be meritorious claims. In fact, if we had a rule 11 for administrative claims, some of these people would be candidates for that. But what they do do for that is they extend the clock, they prevent us from collecting, and along the way, not only do they not pay -- which means other ratepayers have to in a sense subsidize their service -- but they buy some time. And I see them qualitatively as different from the equitable argument you make about citizens wanting to have access to a hearing officer. So, I just wanted to give you a chance to respond to that, because I'm not yet persuaded that one size fits all, even though I'm very persuaded about the equitable argument you're making as it applies to citizens and particularly people who are of low income. I welcome your thoughts on that.

Sollinger: I'm not at all opposed to the idea of a tiered fee structure, I just couldn't come up with one that I thought wasn't over-inclusive. One of the concerns that we have is that the appeal fee shouldn't exceed the underlying amount in question. For some of these cases I think you're referring to, the average penalty is \$250, so having a \$1300 appeal fee just doesn't seem to make rational sense to me. But having a sanction for frivolous appeals to target that bad behavior would make sense.

Fish: I'll give you -- I think it's fair to put more meat on the bones. A company or large organization says, "we're not required to pay stormwater fees." Well, that's a big deal. And we can spend a lot of staff time and other resources, and a year later we can have a big bill that's mounting, and none of us really think that's a serious claim. Or the person -- to use a more recent example -- deliberately bypassed a meter in order to save money, got caught on it, and then objected to the reasonable fee schedule and so we had an extensive hearing on that and ultimately settled. I just want to be careful that we don't create a perverse incentive for people like that to game the system when we're trying to correct another problem which I agree with you on, which is removing barriers for people who have every right to be heard and for whom the fee structure is an impediment. As we go through this discussion, I just want to -- I'd like to see if we can separate it out, the classes, because I think they are totally distinguishable.

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Hales: Appreciate you raising the concern, although I'm not sure I follow the scenario. If the current high fee scenario didn't dissuade what you or I would and in fact did describe as a frivolous appeal by someone who was trying to game the system, then that still perpetrated an injustice for as long as that appeal was pending, and then the injustice was righted when they lost.

Fish: Well, not necessarily. Most of them will go to court at that point or something else. But there's two principles. There's the principle of cost recovery. That we can't offer this -- we can't just give the service away to people. It's one thing to have them exercise their right, it's another thing for us to in effect subsidize that right. And the current model, at least, for folks is structured to do some kind of cost recovery. I think it ends up punishing -- it obviously punishes a whole class of people and I think it's inequitable and has to be restructured. But I would hate to throw the baby away with the bathwater on this one on making an effort to do cost recovery for people for whom the filing fee is not a barrier. And I just don't want those wrong-doers lumped in with everybody else, unless the City is prepared to pick up that cost from the general fund. And I'm just going to go out on a limb and say you might be skeptical of that, particularly if it ends up generating a lot more appeals and therefore more general fund. But that's how I distinguish it. I think for companies that are wrong-doers, having them pay some kind of reasonable fee is not a problem and hasn't been a problem. As you pointed out, it doesn't discourage them from filing appeals but gives us an opportunity to do some cost recovery. For this whole class of people where it is a barrier, think we have to rethink the whole system, and that's why I agree with the principle that she's articulating.

Hales: Greg might be able to illuminate that a bit from some of the cases that you've seen or patterns of cases that you've seen. Thank you.

Saltzman: I was curious what you envisioned when you said "targeted." There could be targeted consequences for frivolous appeals? Any suggestions about what those would be and who makes that determination that an appeal is frivolous?

Sollinger: I think it might be something parallel to the rule 11 sort of sanctions that Commissioner Fish mentioned.

Saltzman: I'm not sure if I know what rule 11 is.

Sollinger: It's just a sanction for bringing frivolous claims. Right now, the hearings officer doesn't have that authority, and so that would have to be added to code if that were an option you would want to consider. But --

Saltzman: The hearings officer right now doesn't have the authority to determine a claim is frivolous?

Fish: No, I'll tell you what a frivolous claim might look like, Dan. It might be someone who says, "I appeal." Doesn't set forth a basis, consumes a lot of time, and at some point is unable to articulate a basis. And we want to discourage someone from thinking that they can just do that without a consequence.

Saltzman: Yeah, no, I can understand that being frivolous, but there's probably a lot of shades to that, too.

Sollinger: So, I think maybe a civil penalty could be assessed if a frivolous fining is made.

Saltzman: Is a rule 11 something we can adopt as a City? Or is this --

Sollinger: Council could adopt some version of sanctions for bringing frivolous claims.

Saltzman: OK.

Hales: Other questions at this point? We should let you move on because I bet you might even get some answers.

Novick: Mayor, I just want a reminder of what the budget ask was.

Hull Caballero: 56,000 dollars and some change.

Hales: OK.

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Dante James, Director, Office of Equity and Human Rights: Good afternoon, Council, Mr. Mayor. Dante James, the Director of the Office of Equity and Human Rights. I appreciate the invitation to be here today from the Ombudsman and Auditor. When I first heard of this, I was astounded and shocked that the structure exists in the way that it does. Having been a hearing officer in the City of Denver for over 10 years, I have some idea of how this process can look. The City of Denver charges nothing for appeals.

I think we're here today to talk about three things. One is transparency, one is accessibility, and the other accountability. Transparency is simply notice. And I'm struck by the fact that we had in some sense to defend the idea of giving notice with some staff who think that the idea -- they don't want to give the wrong impression to a petitioner that they may prevail. That just makes no sense to me. Notice is given in some sense, in some bureaus and not in others, so there is no consistency. At the very least, we're trying to be consistent about how we do what we do in the City. The blessing and the curse of the City structure is that there can be inconsistencies across bureaus, so this seems to be a way to try to remedy that.

In talking about accessibility -- having sat here last night for most of the evening with you, to Council's credit, you were all extremely concerned about the need for accessibility as it relates to taxicabs and Uber. I would suggest that this is the same thing. It is about accessibility for everybody who are residents of this city and the opportunity to be able to access the rights and responsibilities of being a resident in the city of Portland and not be kept out of that. And too often, many of the folks who would be kept out of those who are low income, those who are people of color, those who are maybe English speaking as a second language -- and those are the folks who may not be as savvy about the ways of the City and the way that it works. And so, it is about accessibility. I would encourage you to think about it more broadly in some sense.

In terms of accountability, it provides the hearings officer with the authority to ensure best and fair outcomes, and maybe the ability and authority to determine whether there is a frivolous action being brought. As I said, in Denver, there was no charge for an appeal from any bureaus. I heard plenty of stormwater issues as well as other things. It's a matter of cost recovery versus equity. And so, how do we balance that? I would ask you to really consider how you would balance that. Is cost recovery more important? Or how do we -- what expense is it in relation to equity? What do we are to give up in order to do this well and do it right?

We've all heard the assumptions of the flood of frivolous appeals, and Commissioner, I appreciate your concern as it relates to corporations versus regular residents, if you will. Having sat for a number of years -- as I'm sure you'll hear as well -- there was not a flood certainly of residential petitioners, and the corporations I also didn't see in the same way. I can give you specific examples of cases that were heard that did not come out in their favor, but it was not necessarily as frivolous as one might think and/or their appeal would then go to district court and they could take it however they wanted to take it.

So, I would suggest that we shouldn't allow the exceptions to swallow the rule, and to ensure that we're going to do what we best can do to provide consistency, accessibility, transparency, and accountability in doing this work in the city. So, I think it really is a prime example of conversation about equity, and I certainly applaud the Auditor's Office for bringing this to light, and it is an issue I think of great importance as an example, a prime example of how do we ensure fairness that makes sense in relation to the structure of the City and cost recovery and all of those things. So, I would encourage you to very thoughtfully consider how we remedy this. Thank you very much.

Hales: Thank you. Greg?

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Gregory Frank, Office of the City Auditor: Mr. Mayor and members of Council, my name is Greg Frank and I have proudly been the City Code hearings officer since the early 2000s. It is a privilege to sit in that chair and render the decisions and oversee the cases that I do.

The hearings office is somewhat unique -- maybe not to you, but certainly to the rest of the city, and that is that I make decisions because you tell me exactly what to do. You tell me what cases that I can hear. You tell me what rules to use in which to make the decisions. And by inference, you also tell me who, in some respects, doesn't get access to the cases that I hear and the rules that you make. Dante referenced Uber. My guess is that some way, shape, or form in Uber, you probably put my office. And we do a lot of limited transportation cases -- a lot by our standards is four or five maybe a year. I will tell you that most of the people that appear before us in those transportation cases are taxi drivers. They are not rich. They are not well-to-do. Their net worths are not going to make up much. And it's expensive for them to come and fight for their livelihood, and it's important for them and that's why we see them, I believe.

So, what we're really talking about here today is your telling me what cases you want to hear and your telling me what rules I should apply and who is going to hear them -- or who's going to have access. That's the bottom line. I don't decide that. I don't decide cases the way I want, I don't decide the cases the way I wish, I decide cases because you give me the rules under which to make those decisions.

The modifications you are asking for today -- quite honestly, if you ask me from a professional standpoint, I really don't care if they pass or don't pass. Our office will continue to exist and continue to make decisions whether or not you pass these. But if you ask me from a personal note whether or not I think it's fair, whether or not I think it's right, then I believe that excluding anyone from the access to our office if they disagree with a decision I think is probably improper. So, that's really all I'm really concerned about.

Margie brought up the \$1300 fee. I agree with Commissioner Fish, quite honestly, that the way we calculate fees could be done so differently. It does account for hard cases and easy cases. But as it stands now, with the way it's structured in the bureaus -- \$1300 when you are looking at a nuisance abatement case of \$200, \$300, \$400 isn't fair. If we're looking at a Water Bureau case of \$200, \$300, \$400 -- I would guess if I asked anyone of you whether or not you're willing to bet \$1300 to win \$250 in any game of chance, you'd probably walk away and say "I'm not willing to do" that unless your principles are really, really strong.

The way it's structured now, it's a deterrent, but in some cases it's an absolute bar. If you're low income and you can't pay that appeal fee, it doesn't matter if it's refunded or not, you're simply not going to appeal.

I'm anticipating there will be a number of questions. And Commissioner Fish, you brought up really good points that I think you and I could have a discourse probably for two or three hours with the points you raised with the Ombudsman, but what I'm going to conclude is when I was back in school up in Seattle, I had a meeting with somebody that I respect eminently, and that was Justice William O. Douglas with the U.S. Supreme Court. He is from Washington and is kind of a backwoods guy up there and he sat around with 14 or 15 of us. I'm going to give you a quote, which I believe is also on the federal courthouse over here, and that is "the liberties of none are safe unless the liberties of all are protected." And quite honestly, I think that is totally relevant to what we're talking about here, and I'd like to keep that in mind as we go through. I'll be available for questions.

Hales: Thank you.

Fish: Do you have an opinion professionally about this concept of giving you the power in rare cases to essentially fine someone for bringing a frivolous case?

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Frank: Let's go back with what I said to start with -- you tell me the rules under which I make the decisions. I do not -- I have not met with the City Attorney and asked whether or not there is any prohibition to that, but I am now allowed under Title 22 -- that's my title -- in code cases to assess civil penalties up to \$1000 per day on code violations. We had one, had a hearings officer forgot to put the end date on it, but it got into the close to \$100,000. So, although we're just the City of Portland hearings office, we do -- you do have given me -- you have given me the authority to assess up to \$1000 a day in civil penalties. I have no problems in number one, so long as there's some criteria to determine frivolous, which the courts have. If I determine something is frivolous, I have no problems whatsoever in assessing a civil penalty for that.

Fish: You currently have the authority to apply statutory interest.

Frank: No, I do not.

Fish: And why is that?

Frank: Because you -- going back -- you haven't given it to me. I am a unique being -- the office is. We don't have any more power than you give. If you give it to me, then I can answer you, "yes, I do."

Fish: So one potential benefit of statutory interest is it keeps pace with inflation and it at least keeps the clock running for someone who is attempting to bring an appeal just for delay's sake. Is that administratively workable if we gave you that instruction?

Frank: It is administratively workable from my perspective, and that is simply the decision-maker's perspective. How it works with the administration at the Auditor's Office about collecting that money or where it goes from there, that's beyond my purview.

Fish: Of course we do at the utilities, we have a different tool for an aid of collection that is a last resort, which is we can shut off someone's water. If they don't pay and they don't assert a claim. We very rarely do that, but it is a slightly different tool.

Hales: I like the idea.

Fish: Interest?

Hales: Both, actually. I like the idea of giving him the authority to declare appeals frivolous.

Fish: There's very well defined standards in the courts, common law standard and statutory standards, so we wouldn't have to make it up and we could make clear that it applies in unique circumstances. We would never want to create a penalty system that says just because someone is uninformed or didn't do a very good job that they could be subject to a fine. It would have to be someone that you really could say, "you really should have known better. I asked you several times to frame your claim, you didn't. You're just wasting time and you deliberately violate the rules." And at some point there has to be a sanction for that. I don't know what that would be. I don't know how you would structure it, but.

Hales: It's worth exploring, the statutory basis is there.

Fish: I also think interest in some circumstances is reasonable. And actually, the City charges interest on arrears, and I'm not -- almost surprised to hear we're not doing that now. It is one way to keep people honest who owe money and are just gaming the system.

Hales: Any other questions or any closing comments from our panel here before we take any other testimony?

Hull Caballero: Now I would be happy to introduce guests that we invited.

Hales: You have some folks lined up.

Hull Caballero: Yes.

Hales: Please.

Auditor: Rex Burkholder is a former Metro Councilor, you may know, and he will describe his experience with the appeals system in its current state. We have Janice Thompson of

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the Citizens Utility Board; Kristin Chambers of the National Lawyers Guild; and Mary McWilliams of the League of Women Voters.

Hales: Great, thank you. Good afternoon.

Rex Burkholder: Good afternoon. My name is Rex Burkholder, I live at 2824 -- now I'm nervous -- 2824 SE Yamhill, and I'm here today as a customer of yours but also as a citizen to tell you a story about how I -- my experience with one of the bureaus of the City and lack of notice and lack of ability to make an appeal, and then the process I went through to try to resolve that and met up with the Ombudsman and the Office of the Auditor. Here to urge you to adopt these recommendations, and so I'm going to tell you my story and try not to get too emotional about it.

It began in December of 2013 when my neighbor across the street had a sewer failure. Her sewer ran through her backyard, through a neighboring property to SE Belmont Street. She had the City come out -- the Bureau of Environmental Services -- and try to figure out how we solve this problem. BES's solution was to put a new sewer line down SE Yamhill to replace an existing private line that served my house and my neighbor's house and then to inform us after the decision was made that we now owed \$5000.

So, I was being asked to replace an existing working system with something new that wasn't necessary to me and pay the same amount as my neighbor's failed sewer. I disagreed with the solution. And I asked the simple question, "can we talk about this and talk about shared responsibility? Where is my responsibility, how do I go through those steps?" And I was told there is no appeal process. So, you know me --

Fish: Who told you that?

Burkholder: The staff --

Fish: At what level?

Burkholder: The staff person working on the project itself. And so, you know me, I'm probably one citizen that knows about public process pretty well and knows a lot of people, and so I said, "well, I'll just call the next level up and keep working my way through it." And I've worked my way up the bureau hierarchy until I reached the former BES Director, Dean Marriott, and was told at each level, "there is no appeal process, you just have to pay it." And so in frustration, I said, "well, I guess I have to hire a lawyer" and Director Marriott said, "well, we have more than you could ever afford." I did speak to a lawyer and they read the code and said "you're going to lose because it is all written so the bureau is always right." But I still felt there should be a clear way for a citizen to appeal, to petition his or her government, and I was connected with the City Ombudsman. The Ombudsman, she gave me some code that said, "well try this" which was to go to the hearings officer. I was not told that it was going to cost money. That didn't stop me. And for some reason, I never got a bill from City for this one, I guess. But I went to the --

Fish: Just put your address back on the record. [laughter]

Burkholder: We went to the hearings officer -- at the first hearing, no one showed up from BES. The second hearing, the hearings officer heard the case and said basically that this code that was taking me to the hearings officer was actually not applicable in my case, but he also -- Mr. Frank also let the BES staff know that there should be a clear statement of what the appeal process is because there is a review committee process. Well, I went to that review committee. It was made up of staff who all said, "you owe the money, just pay."

But the end of this -- it's not really the money. I wrote the check and I did my part. But the fact that here, a very sophisticated consumer of government services -- myself -- and someone who knows how the system works very well was totally frustrated with the simple question of "can I sit down with you and talk about what I think is an appropriate amount for me to pay to solve someone else's problem? And let's have a discussion." And I was told time and time and time again, "you have no rights to petition on this one. You

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have no rights to appeal. There is no process. And, yes, if you want to sue us, go ahead, but we'll just use your money to fight you back."

So, that was disturbing to me to find a bureaucracy that was so arrogant and so fearful of conversations with its citizens that there's no way of having an appeal there, or that appeal is so hidden that it took me going to the City's Auditor's Office and Ombudsman to find that appeal route -- and then unsuccessfully.

I am, again, urging you to please make this a consistent, accessible, transparent process so people can actually have a way to ask questions that are legitimate, have a discussion, and get their concerns addressed in an appropriate manner. Thank you very much.

Hales: Thank you. Thank you. Who would like to go next?

Janice Thompson: Janice Thompson, Citizens Utility Board of Oregon. I submitted a memo that I think is in your packets.

Hales: Yes, we have it.

Thompson: So, the timely notice issue I think is pretty self-explanatory, but it hasn't been in place -- as you just heard -- and it really needs to be consistent.

Another element of this is the challenge of identifying -- which ordinance and which administrative rule applies also needs to be made clearer. It just isn't appropriate to have that be left up to the individual person trying to navigate the system. And obviously, that's a particular concern for Portlanders who may not have access to technology or be really familiar with its use and for whom English is not a first language.

In terms of the timely appeal, I think it also speaks to a need for a little bit of a mind shift. Instead of thinking like, "oh, these are hassles," that these are opportunities to learn and improve procedures and programs.

The third part of the memo, I'll just let you take a look at, but it just outlines potential the need beyond the utility bureau -- which is CUB's focus -- for some consistent citywide review of things and maps it out visually with this dispute resolution pyramid approach. This came up when Margie was giving her presentation and it speaks to how certain things evolve in different bureaus and, you know, somebody taking a step back might make sense again. CUB is going to continue to focus on the utility bureaus, but just from this experience, a thought for some citywide review.

I really want to focus on the need to revamp how the code hearings office is paid for with appeals, and this ties in with the nominal fee presentation under discussion today as well as the previous budget request for the less than 57,000 or whatever. So, it just seems like the three items have to be reconciled here and are best addressed by shifting to general fund support for these categories of fees as we have this inconsistency in how Portlanders are charged, these high fees, but then also putting the pressure appropriately on the agencies to be fiscally responsible. So, it's reconciling those three points that is challenging. And the cost recovery approach just is not always applicable because in this case, it applies that fiscal responsibility piece but creates these other problems. So I think this does go hand in hand with the earlier discussion you had related to the Auditor's budget.

It should be also noted that this is for a year change. I mean, it's like a "let's have a test period." This whole notion of frivolous appeals is to be taken seriously. I think it needs to be recognized that there's very much in the eye of the beholder dynamic, and that the legal -- as has been mentioned already -- the legal world and other sources of information, other ways to address potential for frivolous, and it shouldn't just be like, "oh, we have too many frivolous appeals now, we're just going to slap back those higher fees."

The other thing I want to highlight is that if indeed the increased number of appeals ends up being consistently upheld by the code hearings officer, then I think I think there

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really is potential -- a need to evaluate the underlying administrative rules. And Rex's situation is the same. I, too, have had calls with people and when they really take a look, it's like, "well, it's not even a matter of it being a financial barrier, the deck is stacked" and it's like, "why should I appeal?" And that's a problem, too. The sweet spot in there may not always be being reached.

CUB is supportive of the idea of having a fee structure and a differentiation between residential and other kinds of customers, and highlight one element of that with regards to BES. But in general, I think the overall goal of this initiative by the Auditor and the Ombudsman is sound and even with the caveats I've mentioned, opening the door for some potential tweaks, movement on this is recommended.

Hales: So you specifically suggested a \$50 minimum fee instead of \$25.

Thompson: I think the \$25 is OK, it might be a little low. I just highlight that, you know, as was mentioned, as an interim step, the Water Bureau is now kind of eating the difference but they have now shifted to a \$50 fee. And so, touching base with them could help evaluate that. At the very least, there should be a low income waiver option.

Hales: Thank you.

Kristin Chambers: Good afternoon, Mayor Hales and City Commissioners. My name is Kristin Chambers, and I'm here on behalf of the National Lawyers Guild and we support the Auditor's proposal in full today. It's been apparent to me through listening to your questions and comments that you are already on board with agreeing that the current system is not providing fair access to all Portlanders, so I won't beat that point home. I will make a few points. I've also have provided written testimony for you today that you can look at in more detail.

I would like to mention though that I think when there is a fee that is more in the amount in controversy for an appeal, that in essence is creating a penalty for filing a complaint. And while I understand that you can obtain that money returned to you if you prevail, when we're looking at the average Portland citizen who is probably not a lawyer and probably not being represented by a lawyer, they may not know what's frivolous. They may not know whether they have any basis to stand upon based on the rules, and they may find that out by appealing and learning more about the process. And so to penalize them before they've even gone through the process by the chance that they might be wrong -- in a good intentioned way -- is really to their disadvantage.

Secondly, I'd like to follow-up on some of this discussion of frivolous complaints. I would like to discourage you from lumping all corporations into one bunch if you do decide to have a different fee for them. I think corporations come in all shapes and sizes. And I don't know what the rate of abuse has been of the system by corporations, but I would hope that it's not a large percentage of them. And so, it seems like that that problem could be more appropriately remedied by looking at particular consequences for those who are abusing the system. One consideration might be screening complaints more early on or having certain requirements that when you appeal, you have to say more than "I appeal," which could be important.

Fish: What do you think of a sliding scale? I mean, in most of the legal world, particularly in private dispute resolution, there is a sliding scale based on the amount of the claim. I'm guessing most of the work we do these days is arbitration, not courts, and the arbitration sliding scale based on the amount and controversy. And I -- by no means of lumping all companies into the wrong-doer category, but since the equity argument here is access to judgment -- access to justice, I just want to be sure that people that otherwise have access -- plenty of it -- high-paid lawyers and the ability to raise constitutional arguments about whether they have to pay stormwater fees are not necessarily subsidized by the taxpayers indefinitely. And that's my concern. And we are getting claims like that. We're getting

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people -- the arts tax now -- it's more prevalent than people raising constitutional arguments as why we can't impose that tax. We're now hearing arguments about whether it's legal to apply a stormwater fee for off-site stormwater management.

These are important issues, and people have a right to be heard, but I wonder whether a sliding scale -- I get the point about saying the fee shouldn't be more than the claim. But I wonder if it's inequitable to say -- I mean, we do have a progressive income tax. Is it inequitable to say that if it's a \$250,000 claim, you have to contribute something towards the cost? That's the point I'm trying to make.

Chambers: I don't know that it matters so much what the amount in controversy is in terms of the sliding scale because that's not factoring in the accessibility of being able to pay. For example, I'm a civil litigator, and in my world, we do have sliding scale fees on what we have to pay based on the amount in controversy. However, my firm does a lot of plaintiff's lawyer work, and we work on a contingency fee where we often pay all of the costs up front and all of the risk, because otherwise our client couldn't afford to pursue it. So, I think there's a real distinction there about how much the claim is and the individual's ability to pay.

Also, it sounds like -- again, I'm not fully aware of the extent of the problem here -- but it sounds like you're talking about some specific corporations that are repeat offenders that are using this tactic again and again, or it's something that's easily identifiable and you kind of know what's going on. And I'm wondering if that is something as part of the screening process or as part of the analysis by the hearings officer that he could have authority to sanction that for up to the total amount of the cost of the process -- maybe more, if it's a repeat violation -- to help fund the services for other people. If there really businesses that are using this for improper means and can afford to pay it, that's really not the issue.

The last thing I'd like to touch on is what the real value of an appeal is to an individual, whether they're doing it on their own or whether part of a corporation, assuming that they're doing it for the right reasons. I think an important component of access to justice is procedural justice, in other words, the perception of the person who is appealing that they are participating in a fair process. And a huge aspect of that is being able to just be heard.

We know this is very valuable instinctively, and also there have been studies that have shown that people who have the opportunity to be heard are more satisfied with the outcomes, even if those outcomes are against their interests. So, even if they lose, the fact that they're heard helps restore people's faith in the system, their respect for other people, and the government. So, I think that is an important factor to consider, and I believe that the Auditor's proposal gives Portlanders that voice and that opportunity to be heard. Thank you.

Hales: Thank you. Thanks very much. Welcome.

Mary McWilliams: Thank you. Good afternoon, Mayor and Commissioners. I'm Mary McWilliams, representing the League of Women Voters of Portland. Debbie Aiona, the League's action chair, is also here.

The League wholeheartedly supports the Ombudsman and Auditor's proposed reforms to the City's administrative appeals processes. The League is an organization that places a high value on a citizen's right to know, transparency, and accountability. We believe the recommended legislative changes are appropriate and we urge you to adopt them.

When the right to appeal a City bureau decision exists, that right and the steps needed to initiate an appeal should be clearly stated in the bureau's written communication with the public. Multiple inquiries to bureau staff and City Council offices should not be

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necessary for a community member or business owner to understand that they have the right to appeal and how to access the appeal process.

The class of appeals is another issue that the proposal addresses. Currently, the system is based on a cost recovery model. It is possible for a Portland resident or business owner to spend more money to appeal a City decision than the dollar amount in question. The League supports adoption of a nominal fee for all appeals, but as fees can be a complicated issue across the bureaus and departments, and while we support adoption of a nominal fee for all appeals, it couldn't hurt to explore other possible fee structures.

The nominal fee approach eliminates a need to consider the costs when appealing a City decision and opens a door to individuals and businesses to appeal City decisions, regardless of means. CUB's suggestion that the City explore the option of exploring the option of charging different fees for commercial versus residential customers merits your consideration.

These adjustments to the City's administrative appeal processes provides an opportunity to enhance services to the people of Portland. As the League has followed closely the City's police oversight system, we have become aware of the potential to improve City services through consideration of community complaints. Similarly, if the appeals process authored by other City bureaus are made more readily available to businesses and residents through both notification and nominal fees, City bureaus will be able to gain greater awareness of shortcomings in their policies and decision-making processes.

Thank you for considering our views on this important issue. The League urges you to support the Ombudsman and Auditor's proposed changes to the City's appeal processes. Any exploration of different fees for residential versus commercial customers should not delay the adoption of the proposal.

Hales: Thank you. Thank you all very much. Is there another panel, or are we to public testimony? OK, public testimony then, please. Anyone signed up?

Moore-Love: Yes, we have four people left on the list.

Hales: Come on up, please. I think there are four seats. Good afternoon and welcome.

Fish: Did Leo leave?

Ibrahim Mubarak: He's coming back.

Hales: OK. Go ahead, you can start. There's a button on the bottom of the microphone. There you go.

Wendy Fleming: Good afternoon, Mayor and Commissioners. I wanted to share my experience with an appeal process with you.

Saltzman: Could you move the microphone a little closer?

Fleming: Closer?

Fish: What's your name?

Fleming: Wendy Fleming. Last November, I learned my home had a party sewer with [inaudible] the house behind me -- it sounds like someone else did as well. At that time, I was told there was a sewer main with a lateral in front of my house for my use but that my neighbors to the north were using it. These neighbors also had a sewer lateral in front of their home that's not being used. However, when my contractor went to get a permit, he was told I would have to pay to build a new lateral. Confused, I called the BES and was told there was no law prohibiting my neighbors from using a lateral in front of someone else's home. And although the City had requested my neighbors provide proof their line was conforming, they refused to cooperate.

Since I couldn't prove the line was nonconforming, they would be allowed to remain, and I would be forced to pay to have a new lateral built -- something the City charges nearly \$6000 for. I was given no indication I could appeal this decision.

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Frustrated that it appeared my neighbor's refusal to cooperate with the City may cost me thousands, I called the Ombudsman's office to see if anything could be done. Margie Sollinger helped arrange an administrative review that was held earlier this month. At the review, I pointed out City Code enforcement provisions that could be used if my neighbors refused to comply, and the review committee agreed to look into it. Rather than require my neighbors to provide proof, the BES sent a crew to locate their line. They found that the line did not cross onto my private property, and final determination letter states that my neighbor's line is conforming.

Prior to the review, I wasn't familiar with the distinction between public and private property, and we have no idea where my neighbor's line was located. Afterwards, I realized that my neighbor's line crossed public property in front of my home, and that also meets the definition of a nonconforming sewer -- a private sewer located on public or private property that is not on the same property as the structure being served. In other words, there is a law that says you can't use a lateral in front of someone else's home, although the wording is confusing.

I think this shows that the review process can be used to gain information, to increase understanding, and to improve services that the City provides if approached with that intention. After all, how can any person or any system improve if they refuse to consider feedback? In my case, less than 24 hours after I brought this attention to the attention of the chair of the review committee, I was told that the BES would simply adopt the portion of my neighbor's line that was conforming, thereby making it conforming. Initially, I had been told the cost to appeal the decision would be over \$1300. However, on Friday I was told that BES now considers this a route of service issue and therefore can't be appealed at all. Based on my experience, I would ask that in addition to establishing a uniform, transparent, and affordable appeal process, you ensure the code hearings office makes the final determination as to what can be appealed. Thank you.

Hales: Thank you.

Fish: In your particular matter, you're meeting with Bill Ryan on Friday?

Fleming: That's right. Through your office, thank you very much.

Fish: Just want to make sure that you feel you're being treated fairly. Thank you.

Hales: Alright, who's next? Ibrahim?

Ibrahim Mubarak: I'm Ibrahim Mubarak from Right 2 Survive. What I want to talk about -- the equality of things that go on in this country, this state, this city. We all to treat people equally per constitution and per god saying all people created equal. If I said all men, I would think I was sexist, so I say all people. However, when it comes down to the low-income people, I don't think there's no equality done, unless it is with money. And that's the only equality that I see that's done in this community, in this city, and in this state. Low income to no-income people can't afford the high fee, the nonrefundable fee, the fare to do a hearing where they may get a ticket for \$250 -- which they can't afford anyway -- but then in order to get a fair hearing, they have to pay anywhere from \$1000 to \$1300 -- even if they create an organization like we did with Right 2 Survive. We are a poor organization, and we have to pay those high fees in order to get a hearing or fair trade. And if you say that you're doing things equal in that financial step, why can't you do things equal to the people living on the streets? They should have the same rights, not just when it comes to financial capabilities.

And that's why I think I agree with everyone that spoke here that this Auditor's proposal is a good proposal, where it should have a sliding scale to an organization's income, a person's income, and social status. Otherwise, you're not treating people equal, unless you just looking at the financial aspect of the person, and then they job and through their employment, they may not be able to afford that. This is an abusive system. And

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again, when you do pay that, it's not refundable. So where are they going to get that money to pay that? If they don't, they've been criminalized. And I think that is profiling and targeting on the poor people in this city, in this state, and in this country.

Hales: Thank you. Thanks very much. Mr. Van Orden?

Paul van Orden, Noise Control Officer, Office of Neighborhood Involvement: How are you doing? Members of City Council, my name is Paul van Orden, I'm a resident in North/Northeast Portland, I'm a Quaker, and I've worked for 25 years as a career environmental officer. I speak today as a citizen on my lunch break from work and not in any capacity tied to my role as an employee at the City of Portland.

For many years, I've observed a disproportionate approach to enforcement translate into neighbors of limited fiscal capacity feel the brunt of enforcement. This can be contrasted to the example of affluent folks, like appointed City Design Commissioner Ben Kaiser, observed violating Title 33, the very code he has been appointed by the City to uphold. If we can't fine a wealthy man like Ben and his business associates to an equitable level to bring them into compliance, we should not remove the rights of less affluent citizens to challenge the cases that have been brought against them.

As a career environmental officer, I have experienced working in north New Jersey on cases with fines ranging into the hundreds of thousands of dollars. Increasing the ability for citizens and corporations to appeal is not something as a professional in this field that I see a problem with in my 25-year career. I've won between 95% and 99% of my cases. An ethical, well-prepared, strong case did not fear appeals that allow reasonable levels of questioning authority. I wish to thank the Ombudsman's office to undertake the effort to fix a small body of some of the inequities that we have in our enforcement system. Thank you very much.

Hales: Thank you. Good afternoon.

Leo Rhodes: Hi, my name is Leo Rhodes and I'm also with Right 2 Survive. But also, I would like to talk about -- or represent the minority and also the low-income people, which I am formerly homeless.

So, the 1300 and 1000 dollars might as well be a million dollars to low-income people, because it is really hard to get that money. And for an appeal, that is kind of ludicrous to say, "OK, I want my rights, and I don't think I have been charged right here, so I want to appeal it" and then all of the sudden you say, "OK, that's \$1300 or \$1000 on that." If you do have that money and if you do that, then where is your rent going to go? Where is your food going to come from? All of that money is going towards this appeal.

You know, it's really hard for individuals that are low income to do this kind of stuff or have this right to appeal with the money. They do have a right as United States, it's in the constitution of a right to appeal. But to put this monetary status on it is not right. They should have it -- I say zero, just like the rest of the United States is except for the one state. If it happens there, it can happen here, and that's what it should be for the low-income people.

So, thank you. Thanks for bringing this issue on up because it's way past due. There are a lot of people out there that do need this process. And also, I like the transparency, the notice. I do know that a lot of people, including me, don't have this knowledge. And so once we go through it, yeah, we don't know, there's blocks there. We learn as we go along. That's what I really would like -- to have this process where they can find and understand this step. Thank you.

Hales: Thank you.

Fish: Hey Leo, welcome back to City Hall.

Rhodes: Thank you.

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Fish: [indistinguishable] can be found at the Whole Foods on Sandy, and he has a book of poetry forthcoming.

Rhodes: Yeah, thank you.

Hales: Thank you all very much.

Fish: Questions of the Auditor, Mayor?

Hales: Yes, please. Come on back.

Fish: A few questions from what we've heard. I thought whoever testified in favor of the notice of appeals citing to the statute -- I thought that was an interesting point. So I looked at exhibit A, Title 3 Administration, and 3.130.020 B says short plain statement -- let's see. The notice. Wait a second. Yeah, it describes what the notice has to have, and I think this idea of uniform notices of appeal is spot on. As I read it, it doesn't appear to mandate that the bureaus cite to the statute that applies. Any reason why we shouldn't add that as a sub-E?

Sollinger: No. It was in a prior draft and it got edited out, so.

Fish: Have we heard any feedback from the bureaus where that would be burdensome? I mean, if they can't figure out the statutory basis -- what would be your suggestion there? The citation to both the rules that govern appeals and to the substantive statute that governs the basis for the action taken by the bureau, so both?

Sollinger: Right.

Fish: I will make that -- I will offer -- I think it's probably a friendly amendment, but let's park that as potential amendments.

Hales: Mm-hmm.

Fish: Because I think that goes directly to what you're trying to do around notice, and puts people on notice of where they can find statutes. And if they Google it, I'm assuming they can pick up it off line or find it somewhere. It will make it easier. The \$57,000 in your budget request -- that's based on what assumption?

Hull Caballero: That is based on the predictions from the bureaus in the coming year of what they think they're going to generate in code enforcement and appeals cases --

Fish: Right.

Hull Caballero: And so it's a projected number based on what we think is going to happen.

Hales: Based largely on current rate of appeals or on projected higher volume?

Hull Caballero: I'm going to let Sarah Landis answer that question -- she's more familiar with the budget request.

Fish: I want to make sure it has built in a contingency because I'm not sure what happens if we blow through that amount.

Fritz: Well, and I have another issue to raise --

Fish: Sarah, how do you get the 57? And what happens if our projections are on the conservative end?

Sarah Landis, Office of the City Auditor: Sarah Landis, City Auditor's Office. The projection does not include a contingency, it is strictly based on the number of cases that bureaus with whom we have inter-agency agreements -- the number of cases that they intend -- that they thought we might hear next year. Trying to do a conservative budget ask without any assumptions that -- any legislative changes would bring changes in workload.

Fish: If after six months the \$57,000 was eaten up, would your intention be to bring a further request in a budget modification?

Landis: We would need to do so. We do have some flexibility in our budget in the hearings office right now to have an on-call land use hearings officer, so that that person could pick up some of the work load that Greg currently has with the land use hearings and allow him more time to focus on the code hearings. But it's our intention to collect really robust data

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and to try to suss out whether there are new appeal avenues being utilized as a result of a legislative change and to track very closely the numbers of cases and where they're coming from.

Fish: And that data would come to us at the end of the one-year pilot project as part of a report on what our experience has been, and whether you recommend any further changes?

Landis: Right. And I think there is also a larger question about the overall funding structure of the hearings office. This is just addressing the code portion of our budget, but there are financial policies that we are out of compliance with in the way that we're recovering funds for for that office.

Fish: Judge, what kinds of cases routinely involve a stay of the administrative proceeding pending the hearing?

Frank: For the most part, just exclusions.

Fish: So in almost every other case, there is no stay. In other words, if there's a fine or a delinquent bill, it still has to be paid, even though someone is in an appeal?

Frank: There isn't -- to my knowledge, there is nothing that addresses that specifically. When the case is in front of me, I do not order -- whether it be interim or a final or whatever you want to call it -- I do not order that the money be paid or not paid -- in other words, stay or no stay. That is not something that I do.

Fish: What do you think of the idea of in certain circumstances giving you the discretion to apply interest to whatever your judgment is?

Frank: That's your call, not mine. From my perspective, judges do it. As a statutory matter, I have no problems with you giving me that authority.

Fish: Madam Auditor, do you have an opinion on interest, including whether, if it was within the discretion of the judge, it kicked in -- it only applied to a certain class of cases?

Hull Caballero: I don't have a problem with that. My preference would be that those kinds of decisions remain with the hearings officer. I think that those would go a long way in addressing your concerns that people would be gaming the system, and it would, I think, instead of barring them from the door, it would signal to them that if they are going to try to game the system that there is the potential for a penalty. I think that gets us around the dragnet effect of trying to do something -- you know, you have already provided the appeal to those groups, and so instead of trying to bar the door through some sort of process, we could leave it in the discretion of the hearings office to be on guard for those kinds of things and should they appear that he could at that point take action.

Fish: So if we were to craft something that said in a very rare case, at the sole discretion of the judge, if he or she determines the case is without merit or however you want to craft it, the remedy could include interest and potentially a penalty described as X. Do you think we could craft something for purposes of discussion?

Hull Caballero: You mean today?

Fish: I don't have a -- [laughter]

Hales: The other option I would recommend -- assuming these are amendments that you would like to add to the package -- is because this is a non-emergency ordinance, I would recommend just continuing it a week and giving you a chance to put these thoughts on paper as amendments and bring the revised ordinance back.

Fish: And then debate -- see what the Council thinks. Would you be open to working up, for purposes of our discussion, something that would give the judge the discretion at the back end if it was a case without merit, to award something -- whether it is interest or penalty or whatever you and I work out -- in addition to an amendment to exhibit A?

Hull Caballero: So is that different than the question you just asked?

Fish: I'm just saying, are you amenable to what the Mayor just suggested --

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Hull Caballero: Yes.

Fish: -- that we continue this for a week, you and I will get together and see if we can agree on some language.

Hull Caballero: Yes.

Fish: And Sarah has said we would get a report at the end of the year. Is that in the legislation, or is that just your intent that you stated on the record?

Landis: It is our intent. We are going to have to come with a budget ask next year to fix the funding structure, and at that point, we hope to have enough data to let you know whether or not we are staffed at the appropriate level.

Fish: One last question. I thought the person who testified for the National Lawyers Guild something interesting about the value of having your day in court, of having a hearing, and even if you don't prevail. And as a former plaintiff's lawyer with a lot of hopeless cases, I would say it was very valuable. Do we have a mechanism that allows the parties to decide to go to mediation in lieu of the hearing, or some equivalent of mediation where there's a chance to talk more informally about the claim, which I think we have at least found in our legal experiences to be very valuable in giving someone a hearing but also sometimes choking off cases before you have to put a lot of time and energy in them?

Frank: That provision is not in the code at this time, we do not have it in the rules at this time. Once again, if it is what the Council desires that they have an intermediary step, then that's what we will follow. If you understand -- and I had in the opening comments -- but after hearing some of the discussion, I cut it out. There's a lot of bureau decisions made every single day that aren't appealable to anybody, whether it be a supervisor, a committee, or the hearings officer. There's just those decisions. There's the other extreme that they go to the hearings officer through some intermediate mechanism. My focus when it comes to me is I perceive that as a contested case and we simply have the hearing because we are under the code required to hold the hearing within 30 days. If you tell me that there is a possibility of sending people -- giving them an option to go to mediation, that's --

Fish: I don't think we're gonna -- in the time frame we're operating under, I don't think we're going to get there. But since your proceeding results in a winner and loser, I would like us, Mayor, to consider whether there's a mediation-type option in certain cases that we could craft. That actually makes the person bringing the claim the master of his or her claim. It gives them a chance to do justice without going through a hearing.

Hales: I like that, especially since we had that function inside the walls of City government already in the ONI office.

Fish: But I think it's going to be hard to craft quickly, but I would hope it is something that we could take a look at and see -- maybe Dante had an experience in Denver.

James: Listening to the question, there were times certainly in lower level issues when the petitioner was there that I would -- because I had the authority of the director, essentially, it wasn't necessarily statutory. There were times when I would literally stop the hearing and say, "we're going to take a recess, and you two -- the representative from the agency and the petitioner -- I'm going to send you outside and you are going to come to a better conclusion than you would much prefer than if I make a decision." And more often than not, they would come back and they would have reached some reconciliation. And so there were times I just said, "we're going to stop because clearly, you two have not communicated before, so I will send you out so that you can do that and then come back and tell me where you are and we can start again or not."

Fish: Frankly, where I would find that compelling if you stopped the proceeding, called someone from one of my utilities, you know, took them aside and said, "based on what I have heard, work this out."

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James: Well, that's whose representing the agency -- somebody from the bureau.

Fish: Yeah, and come back and tell me whether you can or not, but it would be in the interest to work this out.

James: Yeah, and that's exactly how I said it.

Frank: Commissioner, that occurs in code cases. It's always a distinction, but code cases brought by the City. Appeal cases, which we're talking about here, are not. They're brought by the citizen or the entity. That technique is simply a judicial technique that if you perceive there is an opening for an agreement, then it makes entirely good sense. It takes time, and I only use it personally when I think I can be productive.

Fish: Because I think the spirit of these things always ought to be to do justice. I mean, we have rules and we have guidelines and we have time limits, but at the end of the day, if a citizen comes in with a claim, our theory should be to do justice.

Frank: Mr. Burkholder's case is a case of example.

Fish: Trying to game the system and he's still here complaining!

Frank: Yeah, trying to game the system -- [speaking simultaneously] -- Mr. Burkholder was incredibly respectful, he came to me, he heard something he didn't want to hear, and I remanded it back to one of your bureaus. And from what I understood sort of second hand is that he accepted the process because we sent him back, and in essence -- not in my room, but another room -- they came to an agreement. That one I actually send back. I have within my powers right now to remand, and a remand is a very forceful, in essence, position saying, "go back and fix it because it's got to be fixed." Usually, that occurs when I perceive the bureau has had some technical issue along the way, and they need to go back and fix it.

Fish: Thank you.

Hales: Well then, I'd like to suggest -- given this discussion -- that we do continue this, give you or anyone else on the Council a chance that wants to suggest further amendments.

Fritz: So might I have an opportunity to testify? I haven't said anything yet.

Hales: You may, but I'm going to pass the gavel to Commissioner Novick because I have to leave. But I will do that and let you continue the discussion, and, again, presiding officer of Council at that point can continue this until next week, but that sounds like what I would like to do as well.

Fritz: It's an issue that I think you will be interested in.

Hales: OK, I can stay for another couple of minutes before Zach grabs me by the scruff of the neck. Go ahead.

Fritz: Well, the Council did have a discussion about demolition delays, and part of the outcome of that was that we were going to have this appeal to the code hearings office to allow the 60-day demo delay.

Hales: Right.

Fritz: So, that's a different appeal from the "my fine is too much, my bill is too high" -- it's a "I don't like this development action in my neighborhood" demolition. And we had estimated that just for that one process, it was going to be \$92,000 that we would need to pay the code hearings officer.

So, there's two issues there. One -- because that was 20% of the expected delays that we expected to get appealed. So, there's a question about the amount of money being requested. There's also the question of doing away with the fee -- which I actually support completely doing away with the fee -- \$5 or \$25 or \$50 -- if it is nominal to one person, if you are on an \$800 social security check, \$5 is still out of the realm of possibility. So, I would support going to no fee, but then that removes the safeguard that we put in place for demolitions that the fee waiver was for neighborhood associations who go through a

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process rather than for Joe or Jane Homeowner next door who's just ticked with the developer and wants to delay them for another 30 days.

Hales: OK, yeah, that does have to be considered.

Fritz: Thank you.

Hales: Good. Well, I want to comment before I leave. I have to race off to something else. I'm really glad that you brought this forward. This is the right thing to do. Obviously, there's some more work to do to shape it. I can't help but be struck by what may seem like an anomalous comparison, but I don't think it is -- in the wake of the Ferguson tragedy, there has been some attention to the fact not just Ferguson -- although they were most pointed out for it -- but a whole bunch of little municipalities that are too small to actually be municipalities -- they survived financially by charging people court fines for damn near everything they can think of. And what a contrast with what you're proposing here to make the system much more just for everyone rather than distorting the relationship between the government and its citizens with prohibitive charges, or in some cases, confiscatory ones. So I just think this is a very Portland thing to do and I appreciate you bringing it forward.

Fish: Mayor, one question for you, since you're the maker of the budget and you've expressed your support for the concept. Is your preference to have a place holder number that's based on some reasonable guesstimate or to inflate it to cover some reasonable contingency so there's one budget ask for the season?

Hales: I think given that we have a contingency budget and we will have one in my proposed budget and suspect we'll have one in some amount when we get done, I'd rather have you make your best guesstimate of what you think this will be but with an understanding that this is a guesstimate, not the kind of forecast that we have typically in bureaus, and then have Council understanding that there'll be a contingency ask if we turn out to be low in that number.

Hull Caballero: OK. Because we learned about the \$92,000 figure recently before we made our budget ask, and so --

Hales: Yeah. We'll talk about what that number should be.

Hull Caballero: OK.

Fish: That might get carved out altogether, it sounds to me. It sounds like it might be a whole different --

Hull Caballero: That's a possibility, yeah.

Fritz: I know the Mayor has to go. I would appreciate some discussion, I think, of the important issue that I've raised.

Hull Caballero: I would be happy to do that.

Novick: Madam Auditor, what do you think the appropriate response would be?

Hull Caballero: The appropriate response to the \$92,000 --

Fritz: No, the issue is partly the \$92,000, because obviously you can just ask for more. But the issue is in that particular instance, is there a public purpose in dissuading Joe Citizen, Jane Citizen from appealing a demolition permit?

Hull Caballero: When we discussed this yesterday, it was first that it had ever been brought to my attention. I have not considered -- that is a little bit different kind of issue than an appeal of an action that's been taken against somebody who can come to the hearings office. So I would ask Greg if he had any sort of initial impression, because I don't. I haven't reviewed that information since you brought it to my attention yesterday and so I don't, as I sit here, have an answer for you.

Fish: Commissioner Fritz, do you -- I think you raised a great point, but is it something that can be reconciled with this proposal or is it something that gets carved out all together because it's so different?

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Fritz: I don't have a particular answer to my question. I'm raising it because it's an issue that is different, and I would like some discussion about the merits of potentially seriously aggrieved Joe Homeowner who's a low-income person that can't afford \$1300 versus some of our neighbors in Eastmoreland who are funding a zone change request to get rid of demolitions in their neighborhood.

Fish: Do you want to have that discussion now or as part of the conversations that we'll be having with the Auditor as this matter gets continued for a week?

Fritz: Well given that two of our colleagues aren't able to be here and I think it is a policy question for the Council to grapple with, I would like to hear Mr. Frank's feedback on that, because I know you have done land use hearings as well as code hearings.

Frank: Can I ask you a question? Is the demolition -- and I've met with Crystal Cowen and Douglas Hardy and a couple of other folks on this and reviewed a very early draft, from my perspective, not to say what I would or wouldn't do in a particular case, but these are the kind of issues that I have with the language that will make it harder for me to make a decision. So from that perspective, I have reviewed an early version of the code. There was a discussion about the fees and the fee waivers, and my perspective on that was that we are really pretty good at making decisions, but we're not very good at making money decisions -- in other words, handling money. And so my request to those folks at BDS was, "please, whatever you do with the money, other than the fee waiver, please deal with that on the first floor." With the fee waiver, I said the more criteria you can give me whether or not you're going to use the court models or whatever, the happier I would be. So, that's how responded. But my question was -- this is a Title 33 issue, isn't it?

Fritz: No, it's Title 24.

Frank: 24. Alright. So it would fall within -- OK.

Fritz: And the way we ended up with this code language, which we have adopted, was just the fee waiver for neighborhood associations. I don't think there's a reference to a fee waiver for low income or anybody else.

Frank: My position is kind of the same, then. I'm not -- I would prefer access to justice to be access to justice, and that means that the lower or zero fees, appellate fees would be in existence. I certainly understand, because I heard a number of comments from the BDS folks, that they are really concerned with frivolous appeals. I mean, they truly are concerned with frivolous appeals simply to slow down the process, and I can understand that.

Fritz: Because it does stop the process for demo delay.

Frank: It does.

Fish: Also in my case, has the effect -- some of those cases with lots of lawyers, lots of money, and some rather finely-tuned arguments do have the effect of consuming a lot of the resources the City is making available. So in a way, the average person is subsidizing the big company that's consuming a lot of your office time on a case.

Sollinger: Can I just add -- if I understand what you're raising -- Council via code decides who has standing to appeal. So, you define who is an interested party, who can be an appellant. So if you're concerned that this broader group of folks are going to be able to access the process, I think a possible remedy to that would be to narrow the scope of the appeal right, not necessarily having to raise the fee for concern groups of people.

Fritz: I would think if we went back to do that, we would always give an appeal right to the person living next door. I mean, the way we manage that and came to a decision was that the person next door has to go to the neighborhood association and there has to be a plan for how we're going to move the house or save the house or buy the house in order to be able to go ask for the 60-day delay. But I appreciate the thought. It's just that I think

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anybody should -- the person living next door -- either we change it so that it's only neighborhood associations that can appeal, but that doesn't seem fair either.

Hull Caballero: There are some neighborhoods that don't have an association?

Fritz: Everybody has a neighborhood association.

Hull Caballero: OK.

James: And I think there are some not necessarily representative of the folks who live in the neighborhood.

Fritz: Right. On the other hand, it's generally the home -- more affluent homeowners who are at the neighborhood association who are more concerned about the demolitions. Not exclusively, we had a lot of testimony from renters being displaced at the hearings. But I think in general, neighborhood associations are on it, but then there are other individuals. It's a question I think we should be thinking about as we're considering when to bring this back and what the rules should be for that -- whether it's excluded or all in, wait and see what happens, but we were quite nervous even about the 20% of appeals from neighborhood associations costing \$92,000.

Novick: Commissioner, do you think perhaps we should take more than a week to bring this back? It sounds like there's a few issues that we haven't all thought through and maybe if we are going to come back, we should give people time to have discussions and come up with amendments, etc.

Fish: And there is one other issue, which is we're all tied up on Friday, so we have one last day to talk to you. So we'll have one less day to talk to you.

Fritz: The challenge, though, is that we really need all five of us together to make this policy decision, and we're not allowed to talk about policy at our retreat on Friday. I was really hoping that we would have all five of us to have a robust discussion today after I briefed the Auditor yesterday. And so --

Fish: Here's what we could do. The way it's established now, we're continuing it for a week so we can have conversations with the Auditor and her team about possible amendments. You've identified an issue that I think needs to be explored, and there's a number of ways to do it. It could be around standing, it could be a carve out -- I'm having trouble getting my arms around how to resolve it because that's because I think I'm having Uber fatigue.

Fritz: Yes, and there's that too. [laughs]

Fish: We were here late last night. But the additional week would give us a chance to do that, and then we come back next week, we can have the policy discussion around each of the amendments and then to see if we're ready to proceed to vote. Does that make sense?

Novick: I won't be here next week.

Fritz: Oh, that's right.

Fish: You're not here in the morning or the afternoon?

Novick: Right, I'm in D.C. until Thursday night.

Moore-Love: Commissioner Fish, you're gone in the morning, and Commissioner Fritz --

Fritz: I'm gone in the afternoon.

Moore-Love: Yeah.

Fritz: Well, do you mind if we continue this two weeks, Madam Auditor?

Hull Caballero: Actually, I'm going to be gone the following week, so it would have to be three weeks.

Fritz: Three weeks.

Fish: OK with that?

Hull Caballero: I am OK with that.

Fish: There is a sense of urgency, but if you wouldn't mind, it would give us a chance to get it right.

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Moore-Love: In three weeks, you're gone Commissioner Fish. [laughter]

Fish: Cancel my daughter's graduation -- [laughter] -- well, I'm gone the Wednesday and Thursday?

Moore-Love: You're gone Wednesday morning. I believe the Wednesday afternoon -- that's May 13th.

Fish: What about Thursday.

Moore-Love: You're gone Thursday, the 14th.

Novick: Alright, Karla, what's the next date you can give us?

Moore-Love: Let's see. If you want to do a -- it looks like everybody is in on the 20th. May 20th, Wednesday.

Fritz: And I think in terms of the budget, what I've heard today is very much agreement that we'd like to do this. I commend Ombudsman Sollinger and Auditor Caballero. It's astonishing that within four months of your arriving here, you were able to work with the Ombudsman and bring it to us and it's exciting as one of your major policy initiatives. So, I don't think there is going to be a problem -- at least from my perspective -- of approving at least \$56,000 and a pilot, as a number -- it's just one-time money -- to see how it goes. So, in terms of getting whatever we choose adopted, is there a target date for implementation? Would it be July 1st?

Hull Caballero: For this proposal, this would be September 1st and the budget would be July 1st.

Fish: We have the time. In fact, your predecessor used to come before us regularly and complain that we were cutting her budget, and I think you've now setting a precedent of getting additional money for your budget.

Hull Caballero: She was in some cut --

Fish: Let's not get in a habit of this -- [laughter] --

Hull Caballero: Yeah, she presided in cut years.

Fish: It's very interesting. The Mayor has kept his cards close on all of his funding things, but I think he essentially said he is going to fund this. And if you're looking at September 1st you said?

Hull Caballero: For the legislative -- this would go into effect on September 1st.

Fish: Yeah. So are we with the 20th?

Fritz: Is there a time certain, Karla??

Moore-Love: It would be 2 o'clock. Was there a reason the 13th afternoon didn't work? I show everybody in that afternoon, and that's after your IPR code changes, Auditor.

Fish: I think it's better to go one more out. Commissioner Fritz will be preparing for the benefit that's honoring her late afternoon.

Fritz: He knows more about my schedule than I do -- [laughter]

Fish: I'm the emcee, so I have to get my beauty rest too.

Fritz: So it's 2 o'clock on the 20th?

Moore-Love: Yes. There's a 6:30 budget committee, but we should be OK with this one item on in the afternoon at 2.

Fritz: Let's be sure to request an hour so that we have plenty of time to discuss, at least. Thank you very much.

Fish: Thank you for a thoughtful conversation and to all of you who testified.

Novick: Yeah, thank you very much.

Hull Caballero: Thank you.

Novick: I really appreciate your bringing this issue forward. And I think that we're all agreed that we need to achieve the goal of improving access to justice, we just got some kinks to work out. This matter is continued to the 20th, and we are adjourned.

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At 4:53 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.

APRIL 23, 2015 2:00 PM

Hales: Good afternoon, everyone, and welcome to the April 23rd meeting of the Portland City Council. Would you please call the roll?

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

Hales: Welcome, everyone. We have two items before us -- both land use cases -- so let's read the first one, 413.

Item 413.

Hales: Before we get into the procedures for that, we need to recognize some kids who are here whose parents work for the Bureau of Development Services, right?

Fritz: Right. The folks in the upper gallery are parents and children of people who work in the Bureau of Development Services, and they're here to watch democracy in action.

Fish: Let's give them a round of applause. [applause]

Hales: Alright, welcome.

Fish: Mayor, I see a future Water Bureau employee!

Hales: I think you're right. Prepared and everything else. At the rate things are going around here, we're going to need more employees soon.

So, here's some introductory points, and then I'll turn to the City Attorney for some more as well. The Council previously heard this appeal on April 8th, and we held the record open until 5:00 p.m. on April 15th so that people could submit additional testimony, and then we set this time for Council deliberation.

There were two members of Council who were not present on April 8th who will be participating in the deliberations today, Commissioner Novick and Commissioner Saltzman. Would you please confirm that you've received and reviewed the record of this appeal?

Novick: I have.

Saltzman: I have, also.

Hales: OK, thank you. And then we're required of course to disclose if there are any Council members -- including the ones who just joined this discussion now -- who have any ex parte contacts or potential conflicts of interest to declare. OK, hearing none. Anyone have a question about the Council's objectivity in this case? These land use cases are important. Do you have a question?

*****: No.

Hales: OK. Then I'm going to turn this over to the City Attorney to talk about anything else that we need to cover in terms of the procedure and then we'll go on into our deliberation.

Linly Rees, Deputy City Attorney: OK. So, the evidentiary record in this case is closed and all that's left to do is to deliberate -- to have Council discussion and deliberations.

As staff outlined at the last hearing, your options are to uphold the appeal and overturn the Design Commission's decision thereby denying the application; or to deny the appeal, affirming the Design Commission's decision and approving the application; or something in between if there are additional conditions.

In this case, because of the amount of additional evidence that was submitted, it is recommended that any Council action be a tentative vote for a return with findings, whichever direction you go. That's all I have to say.

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Hales: Alright. Great, thank you. Any questions for the City Attorney? So, if there are no questions for the attorney or staff, then it's time for a motion on this case if someone is prepared to make one.

Novick: I move to deny the appeal.

Hales: Is there a second?

Fritz: Second.

Hales: Further discussion of that motion? Then roll call, please, on the motion.

Roll on motion.

Fish: Aye.

Saltzman: Aye.

Novick: Aye.

Fritz: Well, there's a lot of thoughtful testimony on this and also excellent staff work and a great recommendation from the Design Commission, so I'm very much in favor of the motion. Aye.

Hales: There was a lot of thoughtful testimony and I appreciated it, but I think if you look at the criteria and the project as proposed that this is a very clear decision.

First, there were several public hearings held on this project -- actually I think a total of six if you include ours. And that's a pretty impressive number of public hearings and a pretty high level of public review.

Secondly, I think the buildings that are proposed are particularly respectful of the 13th Avenue Historic District. I thought the architectural team did a very good job of being respectful to that district.

The orientation of the project to me makes sense. It's the least impactful and it makes the most sense with respect to the way the pedestrian network works in that part of the Pearl District. The mixed use and townhouse units really create activity at street level, which is a design criterion that I care a lot about. The courtyard provides very generous public space. So, I think on balance, the team that designed this project did a very good job of following our design goals, and that's why the Design Commission upheld it as well. So, I think it is not appropriate for the Council to reverse their decision. Aye.

Rees: So, what we need to do is find a time for coming back with revised findings. City Code provides that the applicant if represented by an attorney will prepare those findings to be reviewed by the City Attorney, and so I would ask the applicant's attorney to advise how long they would like, and when they anticipate wanting to come back to Council.

Hales: So how much time would you like to prepare findings for the City Attorney's consultation?

*****: [inaudible] -- Mayor Hales, four weeks will allow us to work on that and [inaudible] the City to have time to review -- [inaudible]

Rees: That's acceptable to City Attorney's Office. So, we need to check with Karla to see what is available in four weeks' time.

Hales: So, four weeks or a little more than four weeks from now? Karla, what's possible?

Rees: And if it needs to be a Wednesday morning, that's fine too. Because I know your afternoons are booked.

Moore-Love: Would May 20th be too soon? That's exactly four weeks out. Then it would be 10:40 on May 20th.

Fish: What day is that, Karla?

Moore-Love: It's a Wednesday morning.

Hales: That's our regular Wednesday morning session. Does that work? OK. We'll set that for 10:40 a.m. On Wednesday the 20th.

Rees: Thank you.

Hales: Thank you all very much. Let's move on to the next case, which is 414.

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Item 414.

Hales: Thank you very much. So again, once again I want to make sure we check with Council members to see if anyone has any ex parte contacts or potential conflicts of interest to disclose.

Fish: Mayor, a reporter earlier asked me what this hearing was about and I said it was a land use type proceeding but I could not discuss any further. And I have no conflicts to disclose.

Hales: Anyone else?

Fritz: I met with Water Bureau staff before they submitted their application to discuss their design elements, but not since.

Hales: Anyone have any questions for Council members about those disclosures? OK. So, this is a quasi-judicial land use hearing. We will begin with a staff report followed by proposals from the applicant. Have I got that right? Yes. And then supporters of the applicant will be given time for testimony and then if there is an opponent or principal opponent, they will be given time to present their case, and supporters of the opponents given time to testify individually. There will be Council discussion and potentially a tentative decision today. City Attorney, any additional points you want to cover?

Ian Leitheiser, Deputy City Attorney: I do, I have a few opening remarks. Thank you, Mr. Mayor. This is an evidentiary hearing. This means you may submit new evidence to the Council in support of your arguments. Testimony will be heard as follows. We will begin with a staff report by BDS staff for approximately 10 minutes. Following the staff report, the City Council will hear from interested persons in the following order. The applicant will go first and will have 10 minutes to address the Council. After the applicant, the Council will hear from individuals or organizations who support the applicant's proposal. Each person will have three minutes to speak. Next, Council will hear from persons or organizations who oppose the applicant's proposal. Again, each person will have three minutes. If there was testimony in opposition to the applicant's proposal, the applicant will have five additional minutes to rebut testimony given in opposition to the proposal. The Council may then close the hearing and deliberate. The Council may vote today. If the vote is a tentative one, the Council will set a future date for the adoption of findings and a final vote. If the Council takes a final vote on the findings and recommendations today, that will conclude the matter before Council.

I'd like to talk about several guidelines for those who will be addressing the Council today. Any letters or documents you wish to become part of the record should be given to the Council Clerk after you testify. Similarly, the original or a copy of any slides, photographs, drawings, maps, videos, or other items you show to the Council during your testimony, including any presentation materials, should be given to the Council Clerk to make sure they become part of the record.

Testimony must be directed to approval criteria. Any testimony, arguments, and evidence you present must be directed toward the applicable approval criteria for this land use review or other criteria in the City's Comprehensive Plan or zoning code that you believe apply to the decision. The BDS staff will identify the applicable approval criteria as part of their staff report to the Council.

You must raise an issue clearly enough to give the Council and the parties an opportunity to respond to the issue. If you don't, you will be precluded from appealing to the Land Use Board of Appeals based on that issue.

Finally, I'd like to note that any party may today prior to the conclusion of the hearing ask that the hearing be continued or that the record be held open for additional evidence, testimony, or argument. And that's all for me for now.

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Hales: Thank you. So, Commissioner Fritz, do you have any opening comments before we turn it over to Ms. Adam?

Fritz: Thank you, Mayor. Good afternoon, everybody, thank you for being here. We're here to discuss and consider a City of Portland Type IV land use application for demolition review to remove the Washington Park reservoirs. This review considers the merits of the proposed replacement development as part of the approval criteria, however, approval of this application only approves the demolition of the three historic structures. A separate Type III review must be approved after this one -- if it is approved -- for the replacement development prior to issuance of a development permit.

We know that many Portlanders are very unhappy with the LT2 rule -- I happen to be one of them. We are not here to discuss the merits of the LT2 rule, which is a federal mandate that has been given to the City of Portland which I fought for a long time and which the Council has directed the Water Bureau to comply with. That's not a factor in whether the approval criteria are met in this case. We are only looking at Washington Park today. That is the only site under consideration.

So, the decision before Council this afternoon is whether the specific Washington Park proposal presented in the land use application satisfies the relevant demolition review criteria. As you've heard from the City Attorney, please direct your testimony to the approval criteria for this application, as that is all that we are allowed to consider in making our decision. I'll turn it over to staff, Hillary Adam from the Bureau of Development Services.

Hales: Good afternoon.

Hillary Adam, Bureau of Development Services: Good afternoon. Hillary Adam, BDS. As you said, this is a demolition review LU 14-249689.

Fish: Could you wait just a little bit, Hillary? Maybe move the mic a also closer --

Hales: The whole thing slides. There you go.

Adam: Can you hear me now?

Hales: Yes.

Adam: OK. So, this is an outline of the Type IV demolition review process. May 2014, the Portland Water Bureau had a pre-application conference on this proposal and the follow-up proposals -- or the follow-up applications which would be conditional use review, a historic resource review, and an environmental review. They had one voluntary briefing and three voluntary design advice hearings with the Historic Landmarks Commission. We issued public notice of the Historic Landmarks Commission meeting and the City Council hearing, and we posted the sites for both dates.

We had the Historic Landmarks Commission meeting March 23rd. That was advisory. I prepared a staff recommendation to City Council, which the commission reviewed and provided advice on. They have also written letters which have been forwarded to you. So, now we're at the City Council hearing.

And just as a reminder -- as Commissioner Fritz stated -- a demolition permit will not be issued until a permit is issued for the replacement proposal which is to be reviewed under a separate Type III land use application.

So, we have two precedents for a Type IV review. In 2010, City Council reviewed demolition of the Kiernan Building, also known as the Dirty Duck Tavern. And in that situation, Council approved the demolition because they found that the proposed replacement facility -- a soup kitchen and low-income housing and other services -- was the highest and best use of that site. So, they found that on balance, the approval criteria for demolition were met.

Last December, we reviewed proposed demolition of the Buck Prager building in the Alphabet Historic District. That was a three-story former hospital building that was

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proposed to be demolished and replaced with a four to six-story apartment building. In that situation, Council denied the application because they found there was no significant public benefit to compensate for the loss of the historic resource.

So, the approval criteria for -- or purpose a demolition review is to protect resources that have been classified as contributing in a historic district, and also recognizes that historic resources are irreplaceable assets that preserve our heritage, beautify the city, enhance civic identity, and promote economic vitality.

Demolition review approval criteria are one of the following. One, denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site, or demolition of the resource has been evaluated against and on balance has been found supportive of the goals and policies of the comprehensive plan and any relevant area plans. The evaluation may consider factors such as the merits of demolition; the merits of development that could replace the demolished resource either as specifically proposed for the site or as allowed under the existing zoning; the effect demolition of the resources would have on the area's desired character; the effect that redevelopment on the site would have on the area's desired character; the merits of preserving the resource taking into consideration the purpose described in the previous slide; and any proposed mitigation for the demolition.

And in this case, the plans include comprehensive plan goals and policies, scene and resources protection plan, Washington Park master plan, and the Washington Park Reservoirs Historic District National Register nomination.

Here is a zoning map of the site. For posting purposes, we posted the entire site outlined in red, but the project area is to the northeast of the site in that circle. It's primarily zoned open space, and there are environmental conservation, environmental protection, and scenic resource overlay zones. And again, it is the Washington Park Reservoirs Historic District, which is sort of dashed outline where it says project area.

Here's an aerial view of the district over on the left side, just in context with the City. Here's a closer view of the district.

So, we are here to discuss demolition of three contributing resources. They include Reservoir 3, Reservoir 4, and the Weir Building, which is located just east of the gatehouse at Reservoir 3. Reservoirs 3 and 4 were constructed in 1894 and the Weir Building was constructed in 1946, and they were listed in the National Register under criteria A and C, which is association with a fence that made a significant contribution to the broad patterns of our history and embodiment of the characteristics of a type period or method of construction.

Here's some site photos just to get a sense of the area. On the right there, that is Reservoir 4 looking north to the dam at Reservoir 3. And on the left is a view of the hillside just west of Reservoir 4 that was discussed in the staff report extensively. And then below that is a view across Reservoir 4 looking east. On the upper left, that is a picture of the Pump House 1, below that Reservoir 3, and then on the right Gatehouse 3 and Dam 3 and also one of the urns on the site. Pump House 1, Gatehouse 3, Dam 3, and the urns are proposed for preservation activities.

This shows the extent of the demolition that we're talking about. The square is the Weir Building and then the red outline shows the extent of the demolition. It would be all of Reservoir 3 basin, all of Reservoir 4 basin, and then the red lines show the extent of the parapet demolition. Part of the existing parapet walls at Reservoir 4 would remain.

This is a picture of the proposed redevelopment. The Water Bureau is proposing to construct a new buried reservoir partially beneath a cascading reflecting pool at Reservoir 3. The reflecting pool which would occupy basically the existing footprint of Reservoir 3, also a smaller reflecting pool at Reservoir 4, preservation work on dams, gatehouses and

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other structures and widening of paths, incorporation of new lighting, and introduction of an interpretation program.

The applicant response to the approval criteria. The applicant requested that City Council weigh certain goals and policies more heavily, and those are public facilities and water service as provision of water, which is an essential public service. It's one of the principal roles of government. They also noted retaining the existing historic resources in place will leave water services, downhill populations, and the existing structures at risk-to-due to landslide pressures and seismic inadequacy.

Water Bureau has acknowledged that the preservation of the remaining structures, restoration of public access, and the provision of an interpretation program are necessary aspects of the redevelopment proposal in order to satisfy the demolition review approval criteria.

So, staff findings. Apologize for the wordiness, this is a lengthy report and this tries to distill it. I found that the historic significance of the Washington Park reservoirs and their impact on the development of our city is without question. However, the structural integrity of the reservoirs has been compromised since they were first constricted due to the excavation of the adjacent hillside, including the toe of the ancient landslide. The existing historic resources face continued landslide pressures, seismic vulnerability, and issues due to their age. In addition, the EPA LT2 rule has charged all communities with open reservoirs to cover or treat their drinking water at the point of discharge -- that is why they are proposing a solution now rather than at some point later.

Preservation of the existing historic resources in place would not be practical, as the landslide would continue to exert pressure on the reservoirs, resulting in continued deterioration. The proposed redevelopment includes significant restoration work for the structures and character-defining elements to remain, increased public access throughout the site, and an interpretation program that will tell the story of the Washington Park reservoirs and the Bull Run water system. Despite the loss of historic basins and the Weir Building, on balance, I found that the proposal will have a significant public benefit.

So in summary, I found goals one, two, three, six, seven, eight, nine, and 11 were met. Goal 12 was met and also not met, but when considered against the other goals, I found that on balance this goal was met. Goals four, five, and 10 I found were not applicable. So on balance, I feel the comprehensive plan goals and policies are met.

Historic Landmarks Commission voted three-to-one to support the staff recommendation. Commissioners in favor noted that Water Bureau has followed the advice they were given over the course of four meetings and significant preservation work is proposed. One dissenting commissioner opposed -- [beeping]

Hales: Keep going, please.

Adam: Questioned the necessity of the project and believed that the Water Bureau did not meet its burden in demonstrating the approval criteria were met. Two members of the commission are here, one to speak on each side. So, they can elaborate.

As of yesterday, I received 37 items of testimony. Most of them were opposed, five in support, six noted concerns mostly regarding traffic and construction. The nature of the opposition's comments mostly questioned the validity of Portland Water Bureau's argument that this was a necessary project, questioned the landslide and earthquake arguments, as well as the LT2 regulations. And the nature of the supporters' comments noted an appreciation for the proposed redevelopment and the preservation work. So, your options are to approve the proposal, approve the proposal with conditions, or deny the proposal. That's it.

Hales: Thank you very much. Questions for Ms. Adam? Maybe more later. Thank you very much for now. Let's move on to the applicant's presentation. Good afternoon.

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Teresa Elliot, Water Bureau: Good afternoon, Mayor Hales and Commissioners. I'm Teresa Elliot, principal engineer with Portland Water Bureau in charge of the Washington Park project. Presenting with me today is Marilee Hanks, lead designer for the visible features. In the audience are several Water Bureau staff and consultants to help answer technical questions.

We met with Historic Landmarks Commission several times, culminating with the hearing on March 30th with their recommendation to approve the land use application. In addition, you have a memo from me that addresses some of the issues that were raised during that hearing and a detailed communication report summarizing the public outreach that we've done to date. Marilee will now highlight the application and give you a sense of what the development will look like, and we'll discuss the public outreach in more detail.

Marilee Hanks: Thanks, Teresa. Good afternoon. As we've heard, we're here today to talk about the Type IV historic resource demolition review. My name is Marilee Hanks, landscape architect with AECOM.

We understand that the demolition decision will be based on the balancing of applicable policies of the Portland Comprehensive Plan. And as part of this balancing process, we also understand that you will consider the overall design proposal and its merits on the one hand, and the demolition on the other. In order to support your review of this request, we will focus our presentation today on four main items. The first is the project driver -- so, why the project is necessary. The second is public involvement process, then the proposed actions related to the contributing resources within the historic district, and then finally, how the project design is supportive of the comprehensive plan goals and policies.

The Washington Park Historic Reservoir District is east of the Rose Garden and surrounded by the Arlington Heights and Goose Hollow neighborhoods. As another point of reference, Washington Park Reservoirs is about 250 higher in elevation than where we're sitting here today. Within the district, there are 11 contributing resources which are all noted on the slides. I'm not going to go through those point by point -- it would take a long time. But we're here today to request your support for the demolition of three contributing resources, including Reservoir 3 and 4 basins and the Weir Building.

We're proposing the Reservoir 3 basin be removed to build a new buried drinking water reservoir, that the Reservoir 4 basin will be partially buried and removed in order to meet the stormwater and reservoir overflow requirements, and that the Weir Building will be removed in order to allow adequate protection of Gatehouse 3 during construction of the buried drinking water reservoir.

The remaining contributing resources will all be preserved and rehabilitated to varying degrees. And I think it's important here to note that we have received a letter from SHPO -- a preliminary letter -- and that's the State Historic Preservation Office -- stating that the proposed demolition should not -- doesn't look like it will impact the designation of the district of the historic district.

Hales: They opined that it would not?

Hanks: It would not. The next section I'd like to review with you is the project drivers, and we have four of those that I'll discuss.

The first is the historic landslide. So, any design work that we undertake as part of this project needs to accommodate an active landslide. This landslide was triggered during the original construction in 1894, as you can see in the image there. This next slide is more of a diagram just to depict the overall size of that historic landslide. And as you can see, the toe of that landslide extends all the way into the existing Reservoir 3 and 4 basins.

Our second project driver is seismic susceptibility. And now that regional seismic -- seismicity is better understood, we now that the reservoirs threaten to collapse in a major

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earthquake. This timeline shows eight and nine magnitude earthquakes and their reoccurrence in the Cascadia subduction zone that go as far back as 2000 BC. And at a quick glance, you can see that we really need to be prepared for more.

Novick: Marilee, I'll just note that Jill Lepore had a piece in the New Yorker recently that suggested that the Magna Carta really wasn't that big a deal. [laughter]

Hanks: OK, I'll go ahead and take that off that slide. [laughter] Our third project driver is safe drinking water, and today's regulations require that we have safe drink water quality.

Finally, our fourth driver is aging infrastructure. And many of the structures at the Washington Park Reservoir were built around 1894, and those were designed to last anywhere from 75 to 100 years and now they're about 120 years old. This is an image of the Bull Run pipes when they were installed, and most of the pipes in the infrastructure at the Washington Park Reservoirs were built at that same time and they are original.

Now, I'm going to touch on the public involvement process. This was set up -- just intended to give you a brief overview of that process, although we also have a larger document that describes it in more detail.

This is our public involvement schedule. We initiated the process in early 2013 before we even started design. And each of the dots or the rectangle on the schedule indicate a point in time when we met with the various groups. Through this process, we received broad support for the project design proposal during those meetings. We've specifically received letters of support from HLC, our sounding board, and the AIA historic resources committee.

I also wanted to mention that we have mailed more than 20,000 postcards about the project, we've sent 2000 emails, and placed more than 1500 postings and fliers around the neighborhoods and areas in the park.

This section of our presentation focuses on our design proposal and is intended to help illustrate how our proposal supports the comprehensive plan goals and policies. The mission at the Portland Water Bureau is to ensure that the City has continuous, safe, and reliable drinking water. The design proposal includes a buried reservoir that is under -- basically below that upper reflecting pool, and the design proposal also includes the two reflecting pools in a similar location as the existing open water reservoirs. In addition, the proposal includes a lowland habitat and grassy stormwater swale area adjacent to that lower reflecting pool. And what you can't quite tell from this image -- but there is quite a lot of land mass re-grading that we're doing at the lower reservoir in order to help mitigate that slide that continues to move.

In the following series of slides, I'm going to share a number of photos of the site in their current conditions. I'm going to follow those up with a series of simulations of the design proposal. So, this photo is of Gatehouse 3 and the Weir Building, which was built in 1946 -- much later than the original construction. We're proposing that the Weir Building be demolished in order to protect Gatehouse 3, which sits behind it, during that construction. This is a simulation taken from a similar point of view and shows what that space would look like with the Weir Building demolished.

A new buried drink water reservoir will be built underneath the upper portion of that reflecting pool you see there, and it roughly -- the form of it follows the curvature of the upper cascade. And we want to keep it at that higher level. By keeping it at the current operation level for the drinking water reservoir, we're able to continue to make sure that we can use the energy-efficient gravity-fed water storage and distribution system that's in place at Washington Park Reservoirs right now.

This is an existing view from the grand stairway. This is a visual simulation looking at the same -- standing from the same spot.

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Through our extensive public involvement process, we have a design proposal for a reflecting pool that will look very similar to the existing condition but that will now be much more accessible to the public since the water will no longer be drinking water.

This is an existing photo looking down at Reservoir 4 standing at the edge of Dam 3. In this simulation, you'll notice the restored and re-graded hillside that's on the right side of that image and extends all the way into the existing Reservoir 4 basin. At this location, we have accommodated several functional requirements for the facility, including the reservoir overflow and then also the stormwater components required for the project.

Based on the Historic Landmarks feedback, we've also included a smaller reflecting pool and dam, and below -- sorry -- a small reflecting pool adjacent to those features next to the dam and the gatehouse in order to better relate future conditions to the historic conditions and the current conditions.

Finally, I wanted to share with you this simulation just to demonstrate what the proposal would look like at dusk. And this is a view that very few people have seen since the 1970s due to the access restriction related to water supply. The historic light poles that you see in the image will be rehabilitated and relit, and new lighting will be added at the pump station and the dam -- and both dams to accentuate the rehabilitated historic resources that are really just a beautiful Romanesque architecture.

The final section. I wanted to wrap up our presentation with a summary of why the demolition of the two reservoir basins and the Weir Building when considered in context with the design proposal support the applicable comprehensive plan goals and policies. BDS staff and the Portland Water Bureau agree on the applicable comprehensive plan goals and policies that must be considered. Our application for historic demolition review covers these in great detail, but I would like to specifically highlight how the design proposal is supportive of three of those goals, and those are the ones that were mentioned before that we feel should be weighed more heavily.

Goal three, neighborhoods, is the first. The design concept resulted from an extensive public engagement process that included neighborhood association representatives. Neighbors will now have the benefit from restored access to the new reflecting pools and restored historic structures -- [beeping]

Hales: I'll allow you some additional time, but I'll do the same for the principal opponent if there is one. Try to wrap up, though, please.

Hanks: Very good, OK. Goal 11E is the water service, the provision of a safe and reliable drinking system as an essential City service. And finally goal number 12, urban design. The design concept provides for accessible well-designed reflecting pools and historic rehabilitation of reservoir, dams, gatehouses, parapet walls, wrought iron fencing, and the lampposts.

The design concept incorporates the results of three Historic Landmarks Commission design advice reviews, the Oregon chapter of the American Institute of Architects historic resource committee.

Removal of the Weir Building will open views up of that restored, rehabilitated Gatehouse 3. Thank you.

Hales: Thank you. Questions for the applicant team? Thank you very much. We'll now begin public testimony phase and allow individuals who are here to speak in favor of the application and who've signed up -- or who do while we're underway here -- to speak.

Let me lay down some ground rules for public testimony for those of you that may not have been here before. This is a room where everyone gets heard and no one gets intimidated, so we ask that we maintain decorum in this chamber at all times. If you agree with someone, you're certainly free to give them a thumbs up or wave of the hand, but we

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ask people not make vocal demonstrations in favor or against their fellow citizens' opinions in this room.

Secondly, this is a slightly more formal proceeding than some of what we do in this chamber because we're making a decision under state law and it's very prescribed how quasi-judicial land use cases are conducted. So, we never allow disruptions in this chamber and if there are any in this case, we'll adjourn immediately because we're not going to break state law in order for someone to conduct any sort of violation of those rules. If you violate those rules, you'll be escorted out of the chamber.

So, that's how it works. We look forward to a complete and civil discussion, and let's turn it over to our Council Clerk for the first three people that want to speak in favor of the application.

Moore-Love: I have a total of seven supporters. The first three, please come on up.

Hales: Good afternoon. Come on up.

Jessica Engeman: My name is Jessica Engeman, I'm the vice chair of the Portland Historic Landmarks Commission, and with me today is Commissioner Harris Matarazzo. I wanted to be here in person to deliver our commission's recommendation to you and to be a resource for any questions you might have.

As you've already heard, we voted three-to-one in March to recommend approval of this. The majority of commissioners felt that the staff report was right on and that on balance, the structural and site improvements, the restoration of the resources remaining, the increased public access were all tremendous public benefits and therefore the application was worthy of approval.

Certainly, you know from when we've been here before that we take demolition questions seriously at the Landmarks Commission given that our charter and mission is to protect Portland's historic resources. But you've also heard that we've had quite a lengthy public process. We've heard from the applicant on numerous occasions, and I will say that certainly at least from the majority of commissioners who are recommending approval, we felt that the applicant has been very much responsive to our feedback.

Early on, we stated that this site really needed a holistic approach and that in order for us to get comfortable with the demolition, we were going to need to see mitigation, that we were going to need to see the remaining historic resources celebrated and really cared for, and I think that they have very much responded to those requests with the public access, the restoration of the lighting, the fencing, the interpretation. So, I think those are sort of the highlights. You've heard about our process. And again, the majority of Commissioners were in favor. Harris is here to represent the dissenting opinion and he's going to share some of his thoughts.

Fish: Before he comes on -- we have your letter of April 13th, 2015. So, does that summarize all the key points that you want us to be aware of?

Engeman: It certainly does.

Fish: Thank you very much.

Hales: Also before you leave -- before you turn it over to Harris, how much discussion did you have about any scenario in which the Weir Building was preserved instead of demolished? I mean, understand the reservoir part of it. I'm talking about the building.

Engeman: Sure. That certainly came up. The way the discussion evolved, we understood that the removal of that resource was going to be critical to the access to be able to do the improvements to the site. The Weir Building, while technically contributing, I would say it is perhaps marginally so in terms that it does not have the level of historic character that the other outbuildings and such have on the site, and that we felt -- again, based on the other improvement and restoration work -- that if the Weir Building needed to be removed in order for them to feasibly do this project that we could get behind that.

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Hales: Alright, thank you. Good afternoon. Welcome.

Harris Matarazzo: Thank you, Mr. Mayor, City Commissioners. My name is Harris Matarazzo, I appreciate the opportunity to address the City Council today. As Jessica mentioned, I am a commissioner on the Historic Landmarks Commission and was the only one of the four reviewing commissioners to oppose the applicant's request. The purpose of my attendance today is to very briefly summarize why I oppose the applicant's position and to tell you that in my own words as opposed to the written letter that went out dated the 13th. You should have before you a letter dated the 15th which is longer than I anticipated initially, but one which sets forth my more detailed views.

This is somewhat a difficult situation because as a commissioner, I don't see myself as an advocate so much as somebody who needs to explain his position. In that sense, it's a little bit different than I would be normally as a regular witness here.

I would note initially that split decisions are pretty unusual for our -- at least, they're not typical for our commission. And given this difference -- if nothing else, I think ideally our testimony here today would help promote a discussion about the value of our historic resources and especially the needs of those that are publicly owned and maintained as well as the action necessary for the ongoing protection.

The issue before you at least as I understand it is the Portland Water Bureau, the applicant -- whether or not it's met its burden to justify the demolition of the Historic Washington Park Reservoirs 3 and 4, and is not frankly the consideration of what will replace them. I think that was made earlier, but a large part of what I think you're going hear is about the beauty of the replacement. I'll agree, it's a very nice replacement but it's really not to the heart of the matter and that is -- has the applicant met its burden?

In my April 17th letter to the Council, I described again why I believe the applicant should not prevail. The Bureau of Development Services has described the reservoirs as without question among the City of Portland's most significant historic resources. In my opinion, given the applicant has the proven capacity to meet the water needs our city without use of the site, that the reservoirs are among Portland's most historic resources and that the proposal seeks to reinstall a vessel within a known and active landslide zone as well as an established seismic area. In my opinion, the applicant did not meet burden to substantiate the need for demolition.

I've often said in commission hearings and I truly believe the most effective government is government that leads by example. And as a commissioner, it's difficult for me at times to rationalize supporting the demolition of a -- it would be difficult for me to rationalize supporting the demolition of a significant public resource while by City Code we as a commission sometimes have to deny the historic homeowners' request for minor exterior modification. And so doing -- I think essentially we're setting a double standard and it's implied -- [beeping] -- and that compromises both value -- compromises the value of our public and privately held historic resources.

I am aware of this -- the holding this Council made in the demolition review of the Kiernan Building. It provides you with discretion in establishing how to balance applicable comprehensive goals and policies when considering the demolition of an historic resource. As this Council knows, although the standard is different from the one we used, it does not mean that review is completely subjective and without guidelines. It is a weighing process. Again, given the historic resource is one of Portland's most significant and for the reason stated earlier, demolition could not be substantiated in my view. Instead, if needed, a more modern vessel could be constructed in a less problematic location. The existing resource could be taken offline, restored as an aesthetic destination, and reduced in depth to only a few feet.

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Factually, the Kiernan Building demolition review is distinguishable from the case now presented. At that time you considered the case, the Kiernan Building had been modified over many years and had almost none of its historic character. It was also in substantial structural disrepair, having lost virtually all of its historic integrity. This is very different from the reservoirs under consideration today, which are essentially still fully functional.

Finally, in the not too distant past, as I entered this building I recall City Hall faced possible replacement, and the obstacles sited as impediments to its functioning included seismic concerns as well as an obsolete and well-worn infrastructure. As I recall at the time, at least one of your members, Gretchen Kafoury, assisted in spearheading an effort to restore this marvelous structure, which is also one of Portland's most significant historic resources.

In later years as a private citizen, Commissioner Kafoury gathered a number of us together to save the Simon Benson House, which is now a crown jewel of Portland State University. Under her involvement -- excuse me -- until her involvement, the success of that project seemed impossible. Her spirit exemplified the best of who we are with the can-do determination despite the odds that frankly I find enviable. Her legacy will be long-lived in this building, Portland State, and within our City.

Landmarks decisions are merely advisory and the Council is not bound by them. Although in the minority, I continue to believe that the applicant failed to meet its burden and respectfully disagree with my commission colleagues that demolition of one of Portland's most historic resources should be allowed under the circumstances. Thank you. **Hales:** Thank you. I want to thank you both for the huge amount of volunteer time that you dedicate to the city as members of the commission. It's a huge service not often known or appreciated by everyone in the community, but we know and we appreciate it. Thank you both.

Matarazzo: Thank you very much.

Hales: Welcome.

Terri Davis, Portland Parks and Recreation: Hi. My name is Terri Davis, and I work for Portland Parks and Recreation as the west services zone manager. Briefly -- in my role, I provide support and oversight of all of the developed parks, recreation facilities, and programs that are geographically located on the west side of the Willamette River and I'm here today to talk about public process in relation to the Water Bureau's Washington Park reservoir project.

Portland Parks and Recreation not only values but relies upon the participation, input, and feedback that we consistently receive from the public to ensure the programs we offer, the parks we develop and maintain, and the facilities we operate are reflective of the communities that we serve. We view these public stakeholders as partners in our shared management and stewardship of our parks and facilities. As other bureaus, organizations, and agencies have assets that are located within our parks, we also work to ensure that any projects or development related to those assets not only meet Parks goals, but also transparently and genuinely include those shared public stakeholders in providing guidance and input into these projects.

I've been the representative for our bureau to the public process for this Water Bureau reservoir project. This project to date has included extensive public process that closely aligns with our own bureau's goals for outreach and community involvement. The process has included stakeholder interviews, project briefings to neighborhood associations and coalitions, open house events, virtual open house options, tabling at community events, press releases, tours of the Washington Park reservoirs, informational

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mailers, web-based updates and blogs of the project, and nine community sounding board meetings with time allocated for public input at each meeting.

I participated as a member of the community sounding board along with representatives of the surrounding neighborhood associations and coalitions and a representative from the historic resources committee. In these meetings, we represented our respective organizations but we worked together to provide input into the development of the visible features design component of this project. I've participated on many such committees and I can state this process was very collaborative, respectful of differing views, and responsive to the input provided both by the sounding board and through public comment.

As the process goes forward, a project manager from our bureau has been assigned to liaise between Portland Parks and Recreation and the Water Bureau. I appreciate the high level of public involvement the Water Bureau has taken, and I anticipate this will continue going forward. Thank you.

Hales: Thank you very much. Questions for any of these folks? Thank you all very much. Welcome. Good afternoon.

Eric Nagel: Good afternoon. My name is Eric Nagel, I was the Arlington Heights Neighborhood Association's representative to the community sounding board that was convened by the Water Bureau, which included representatives from a number of the affected neighborhoods and other interests. We met for a number of sessions over the course of the year. I'd like to commend the Water Bureau for its really extraordinary and extensive public outreach effort. I think every effort was made by the bureau to ensure that anyone with an interest in the project would be heard. I believe the bureau staff and their design team listened to our concerns and that the final project design reflects those concerns.

The sounding board -- and there's a memo that I'll be providing that I think you may already have from the sounding board -- supports the design in almost all respects. We like the cascades concept for Reservoir 3, and we like the hybrid design for Reservoir 4 which will combine a reflecting pool with lowland wildlife habitat. I believe the design reflects the historic -- respects the historic character of the site. It will leave important historic structures intact while making the reservoir site a much more beautiful and welcoming place for Portlanders and visitors alike.

The one reservation that I believe many of us on the sounding board had about the design concern -- the new fence around Reservoir 3. Most of us agreed it would mar the visual appeal of the site. There's no longer a need for a fence, since it won't be a drinking water reservoir, it will only be a foot deep. The Water Bureau cited safety concerns as the reason for the fence, but given how shallow the reflecting pool will be, that just doesn't seem justified. So, the sounding board urges that if there must be a fence, it should at least be as low as possible.

I want to say that as for the actual construction process, we do have a few suggestions -- Arlington Heights does. Arlington Heights will be affected by this construction project more than any other neighborhood in the city. Heavy trucks will travel neighborhood streets every four to five minutes every day for years. This will be on top of the literally thousands of truck trips that will be generated --

Hales: Eric, I have to stop you there because you have to stick with the design criteria, not with what will be considered in the Type II review.

Nagle: OK, I understand. That's all I have, then.

Hales: You raised this issue of the fence during the Landmarks Commission discussion as well? I know you did in the sounding board process, but.

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Nagle: You know, honestly, Mayor, I don't recall whether we brought that up before the Landmarks Commission.

Hales: Thank you. Glad you raised it here. Thank you.

Fritz: Will there certainly be an opportunity to discuss it again in the design project. This is the first I've heard of this. I'm wondering though if it's similar to the problem we have in parks with the wading pools not being allowed anymore. There's a state regulation that we had to drain all the wading pools. So, it's possible that they have to have a fence.

Nagle: One question we had is why we have so many other pools -- like, for example, Keller Fountain, which have no fences around them.

Fritz: Yeah, that doesn't have much of a pool at all, though, it's more of a fountain than a pool.

Hales: It's a good question --

Fritz: We'll look into it.

Hales: I'm glad you raised it. It may not be germane to the Landmarks review but it might be to the ultimate design of the project if it goes forward it.

Nagle: Seems like an unnecessary expense.

Hales: Would you prefer none at all?

Nagle: None at all, yes.

Hales: OK. Interesting. Thank you.

Fish: Thanks for the comments you made about the Water Bureau process. I know that Arlington Heights has not always been pleased with public process involving City efforts, and to call out a positive feature is just as important as holding our feet to the fire. So, thank you for that.

Hales: Would you like to be next? Please.

Annie Mahoney: Good afternoon. My name is Annie Mahoney -- I'm sorry, I'm a little under the weather, so I apologize for my voice. I am a licensed architect in Portland and practicing, and work on historic preservation projects. I was part of the sounding board, along with Mr. Kent and Mr. Nagle, and I am in support of the proposed work at Washington Park's reservoir.

As a member of the sounding board, my fellow board members and I met with a design team at public meetings nine times over the course of design. I personally came to the board as a practicing architect with experience working on historic preservation projects. We did ask questions initially about the choice of eradicating it all together or whether there was another site, but our task was clearly to talk about the physical design features of the project.

The overwhelming direction from the board was to preserve as much as possible of the existing features. We also requested that interpretive programming be included in the design to talk about the history of the reservoirs in Portland and the water conservation.

I believe the Portland Water Bureau and the design team have listened and responded to the board and public comments while balancing issues of cost and constructability, and are meeting the applicable goals stated in the comprehensive plan including but not limited to goal number three, neighborhood. This will create a destination for those living in the neighborhood and the city at wide.

Transportation -- goal number six. This will provide access to this area for people using wheelchairs and who are differently abled.

Environment. Given the landslide and seismic concerns, this is a matter of public safety. Removal of the basins is the responsible and right thing to do.

Goal nine, citizen involvement. The team engaged stakeholders both local and citywide at public meetings and open houses. I personally represented the viewpoint of historic preservation. The design team listened and responded to us at every step.

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Goal 11, public facilities. It will increase public safety and enhance the park experience, providing a backdrop for a piece of Portland's history that is very important.

Most importantly, goal 12, urban design. To visit Washington Park is to experience surprise and discovery. At every turn might be a hidden glen, a view of Mount Hood, or the Rose Garden. Washington Park encompasses and provides many different types of experiences except for a significant water feature. The reservoir project will provide a unique experience that has been unavailable for decades.

If the Water Bureau is not allowed to proceed with this work, what will become of these unique and vital elements of our history? Without the reservoir work, there will be no impetus for any restoration of these important structures and they will fall further into disrepair. An opportunity will be lost for the preservation of one of our greatest assets. Even though the demolition of any historic structure is not preferred and should be avoided, it shouldn't be avoided at all costs. On balance, it is affording the City an opportunity to create a safer utility, an amenity that is accessible to all citizens, and an enhanced resource for the history and culture of our city. This project will be a significant benefit to the public. Thank you very much.

Hales: Thank you. Good afternoon.

Chris Kent: Good afternoon, Mr. Mayor, Council members. I'm Chris Kent, I'm a property and business owner in Goose Hollow area, right downhill from a potential eruption of these reservoirs if this seismic event that everybody says is going to happen happens before we get on the ball and fix this problem.

I was on the community sounding board with Annie and Eric, and you've heard comments about that. I'll just say flat-out, I came to that board a little bit of a skeptic and a lot of a Grinch thinking that something could be wired or jerry-rigged or whatever. I'm very confident that that process was very fair -- one of the fairest I've ever seen. As Eric mentioned, we had different opinions on things, we had lots of input, lots of different concepts thrown around. Eight members, nine meetings, a ton of community outreach. I'm confident that we all got our input into this design. And it was -- aside from Eric's comments -- a unanimous decision of all of these different people from different walks of life about what should be done up there. So, that's a process comment.

I would say too that -- the next category is cost. I came to it really watching nickels and dimes because candidly speaking, we've all seen fiascoes of the Water Bureau before and I was wondering whether this was another one in the making. But I'm confident -- having looked at numbers all my life and being criticized by my friends of being too focused on numbers -- that this is a good investment. The cost differential from putting something up there iconic versus just putting grass and mowing the grass is measured in terms of a few million dollars over the course of 150, 200 years or whatever the life expectancy is of the project. So, I know you add up a few million here and there and you got a lot of money, but over the next century and a half, or two centuries potentially, it's not a lot of money.

The geo tech issues -- I think you've heard a lot about that. It's a landslide, we've got all of these seismic issues, it's on this hill. This thing is going to crack sooner or later and it's going to be a cascade of water coming down off of Washington Park. So, it needs to be fixed.

The final thing I would comment on is the design issue. Again, I'm not artsy, I look at things more practically speaking. But if Pioneer Place is Portland's living room, Washington Park is certainly its balcony. We have -- this is a scene that is seen in countless photographs around the world from Washington Park at various angles, with photographs and views to the city and Mount Hood. It gets a lot of traffic. It's a huge crossroad for tourism and just our identity. I think it's our chance to do something iconic

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that will last for a few generations in a very cost effective manner, clean up a safety problem, and I would urge the demolition be approved so we can get on with this and build something for the future. Thank you.

Hales: Thank you very much. Questions? Thank you all. OK, next three?

Moore-Love: That's all from the support list.

Hales: OK. And now is there someone signed up as a principal opponent or folks here signed up in opposition? Is there an organization that opposes the project? Sounds like not. So, individual opponents, then -- three minutes each.

Fish: How many, Karla?

Moore-Love: We have 14 on the opposed. The first three, please come on up.

Mary Eng: Good afternoon, Portland City Council. I'd like to refresh our memories collectively. If anyone was in the room last Wednesday -- a week ago from last Wednesday -- there was an activist called Jonah who went under the billing Charles Johnson. Evidently, he had borrowed a speaking slot and he --

Hales: I'm sorry, we're here to talk about this hearing today, Mary --

Eng: Well, he --

Hales: Let me interrupt you for a second -- I won't use your time. This is a land use hearing. So --

Eng: Are we talking about radon?

Hales: No, hang on.

Eng: Wheelbarrows?

Hales: Let me finish, please.

Eng: New York? EPA?

Hales: No, let me finish -- none of the above.

Eng: Privatization?

Hales: No --

Eng: Washington forest park?

Hales: Yes.

Eng: Roses? Water.

Hales: Would you let me finish?

Eng: Would you let me finish, sir?

Hales: I'm actually holding your time until I can give you instructions, because we can't break state law here, even if you want to.

Eng: Absolutely, OK. Help me.

Hales: So, here's the deal. You have to concentrate on the criteria that apply to a Historic Landmarks case. In this case, the demolition --

Eng: The flashy PDF --

Hales: That's all you get to talk about --

Eng: The flashy PDF -- the gorgeous, luminous reflective pool.

Hales: The record. Alright, I'm going to let you start and hope you heard me. You have to stick to the criteria and to this case.

Eng: The burden of proof has not been met. The concerns for human health are enormous. The elephant in the room is human health. We often have elephants in the room here and we don't bring them up. What are the materials? Have they been thoroughly investigated -- the materials that are containing this water. The issues with the Missoula floods, the runoff of radioactive water thousands of years ago into our watershed are not being met. We're not assessing the potential -- Merkley said you guys are throwing him out of the game and you're just kind of -- it's a runaway carriage, it's a fiefdom. And it looks like a back door to privatization, supposedly. And I have to say, like, as an artsy person, I find the PDF lovely. I think it's beautiful, it looks kind of neo-Greco Roman, it's

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kind of jazzy, shimmering. But I'm not convinced scientifically that this is the best option. And I'm really concerned about the landslides in the Pacific Northwest generally. I think those are valid concerns. And that the seismic irregularities and the buildings generally should be overhauled, but what I'm seeing with the water crisis on a large scale that -- the EPA appears to be a bureaucracy that has strayed from its original founding principles to protect the environment. And if this is about packing away more cash with your friends in wheelbarrows -- like our famous governor -- it seems we're not having any kind of vetting of what are the vested interests, what is the long-term hundred-year future? A hundred years from now, will somebody be saying what would those petroleum Saltzman petroleum Hales petroleum Novick commissioners doing with our water?

Hales: Mary, thank you.

Ben Pickering: Basically, I didn't know what I was signing up for -- other than I want to say we have nothing to lose but to gain. I'm all for that, that's cool. Thank you.

Hales: Thank you. Good afternoon.

Scott Fernandez: Hi. I'm Scott Fernandez. In 2004, the independent review panel reviewed the seismic and landslide issues and determined that they were a nonissue and voted at that time to retain open reservoirs. EPA LT2 was a part of this discussion, and I wish we could talk more about that but I will limit it to the Washington Park landslides initially.

The Washington Park landslides were stabilized in the early years after the reservoir construction started, and that photograph that we saw with the landslide goes back almost 120 years. But after the reservoirs construction -- first by utilizing pumps to draw down the water table, followed by digging along the slip surface of the landslide to provide a network of interconnecting dewatering tunnels, along with gravity drains.

Being stabilized for decades, today the landslide creeps only at a fraction of an inch a year. It is not the catastrophic situation the Portland Water Bureau wants us to believe exists. The underground water mitigation programs have worked as they were designed, continuing to impede the soil movement. The soils near Washington Park reservoirs have withstood intense rain from inundation from a 1964 Christmas storm, but more importantly, the state of Oregon recognized the February 1996 once-in-a-lifetime hundred-year super storm event as a milestone, with intense raining lasting for many days -- all without landslide issues at Washington Park. The surrounding reservoir soils and landscape survived the ultimate rainfall challenge, and remain that way today.

As far as the covered reservoir that will be placed -- supposedly be placed in the Reservoir 3, the open reservoirs have a long history of protecting us from Columbia south shore well field radon for many years. That protection will go away in a covered reservoir system, exposing children, families, vegetable gardens, and microbrew industries to radioactive radon and radioactive decay products from the covered reservoirs.

Climate change as we see coming from NOAA is forcing us to use and will force us to use more Columbia south shore well field as a secondary source as we have less precipitation in the northwest. Because LT2 has been defective in its science and methodology, we can keep the open reservoirs. And how will Council justify and explain that you have knowingly and willfully subjected citizens to radioactive radon that EPA confirms is no safe level? We need to stop the Washington Park and Mt. Tabor reservoir demolition destruction now, begin an EPA LT2 total system waiver process, and engage with the congressional delegation along with the state of Oregon. Thank you.

Hales: Thank you. Welcome. Good afternoon.

Dee White: I'm Dee White, I'm at 3836 SE 49th Avenue, Portland, Oregon. The zoning code approval criteria on page six references the historic land -- I'm sorry, the historic resource review section 33.445.330 titled demolition of historic reservoirs resources and

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historic district. This reads demolition of other historic resources within an historic district requires demolition review to ensure their historic value is considered. The review period also ensures that there's an opportunity for the community to fully consider the alternatives to demolition. This opportunity for the community has never taken place.

The Water Bureau made the decision to demolish the reservoirs behind closed doors. The public was never given any meaningful opportunity to consider alternatives to demolition.

In 2003, the City created the Mt. Tabor independent review panel for the purpose of reviewing the options for meeting the LT2 rule and keeping the reservoirs secure. It was created in response to the massive amount of criticism for the lack of public participation in the decision to bury the reservoirs. I attached the majority report from this panel's findings with my documentation today -- Dave [indistinguishable] wrote it, it was in the Portland alliance and I have attached that for y'all to read again.

So essentially, the panel found that the final vote was against burying the reservoirs after this independent review. So essentially, once all the facts were brought to light -- much of it by the public -- and presented to the independent panel, the panel voted not to move forward with the burial. This of course did not please the City and the Water Bureau, and this is exactly what the Water Bureau and the City want to avoid with this proposal now to demolish the reservoirs at Washington Park. Cover and treat or do nothing has been pushed aside behind closed doors.

The goal of citizen involvement for the demolition decision, including considerations of the alternatives, has not been met. So, all this public process that people -- that the BDS and Parks are talking about -- it's public process for what's going to happen after you demolish. The public process has not taken place to consider the alternatives to this demolition. And that's critical. It's the rule, it's the law, it's what y'all make us follow. So, the goal -- this application for demolition -- y'all should reject it until a meaningful public process has taken place, and a good place to start would be to have another independent panel consider all the alternatives that can delay demolition and finally preserve our historic reservoirs. Saltzman, you've been on the City Council for a longer than anyone, you've got more standing, you've got more clout -- I just implore you to please start another panel so we can consider all of these alternatives.

Hales: Thank you.

Michael Wallace: Good afternoon, Mayor and Council members. My name is Michael Wallace, I live at 3213 SW Upper Cascade Drive, which is above the reservoirs. I'm concerned about three issues related to the proposed demolition. First, the chance of a landslide has been overstated and the quantifiable seismic evidence clearly shows that even in the face of massive rain and snowfall, landslides are not a problem.

Second, the current reservoirs with proper maintenance can serve Portland residents for at least another 35 years.

Third, the increased traffic that will result from the proposed demolition has not been adequately addressed or mitigated. The closure of Sacagawea Circle --

Fish: Sir, that's not --

Hales: Yeah, I know, that's --

Wallace: Am I out of bounds?

Hales: Yeah, you can't do the traffic issue.

Wallace: OK. I thank you very much for hearing --

Hales: Yeah, and the reason of course is this is an essentially backward looking at the historic resource, not ahead at the construction project. I understand people are concerned about that, but that's out of the bounds of this review.

Wallace: OK, thank you.

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Fish: There will be another opportunity --

*****: [inaudible]

Hales: This is an historic review -- whoever said that, this is a historic review and we've got to stick to the criteria.

Fish: Type III proceeding deals with those issues and a chance to be heard.

White: Before the demolition permit is granted, correct?

Hales: Alright. Welcome.

Michael Conley: Good afternoon, City Council. I'm Michael Conley and I was -- Tuesday night, I was at my Concordia Neighborhood Association meeting, and we had a voice vote about whether I could bring this up. We are opposed to the -- in Concordia, we're proposed to the demolition due to the viability of the existing structures as they are. And there is -- we do believe that they are viable and needed.

I found that the amenities proposed are very nice, but nobody has really brought up cost except one gentleman and he really downplayed the numbers as a few million. This is another huge liability to the citizens and ratepayers. I was really behind the Big Pipe -- that was a great infrastructure to keep pollution out of our river -- but this is another thing that is just I believe unnecessary and also very hastily proposed.

Maybe people in this neighborhood have heard about it -- the process --but I didn't get anything in my bill statement or any communication from the Water Bureau about this. I found out about it on the internet and I came down here to do this.

I believe that demolition is not the way to go. And also, this project cannot be separated really from the LTE ruling and the City's lack of any response to that -- any meaning full opposition to that unfunded mandate from the EPA. So, maybe it's a little bit out of the scope of this hearing, but I believe we can't really ignore that.

As far as you want to talk about your fence for your wading pool as if it's fate, I don't believe that. I think we need to put the brakes on this project and keep our reservoirs viable. And a couple of the other gentlemen on my side have pointed out that the seismic concerns and the landslide concerns have been overstated by the Water Bureau. You know, I love our Portland water but I find the Water Bureau is consistently thrown these things out for us and my bill has quadrupled in the last couple of decades. I think we have to speak to that also. That's a huge expense for our City and I don't know who's going to get the money, but I know who's going to pay for it. Thank you very much.

Fish: Mayor, if I could address something Mr. Wallace said about traffic. So, that's a little bit downstream, but if you or anyone who is here who wants to get up-to-date information about public process on ways of being heard before the bureau seeks a permit or want to weigh in -- because there's been extensive conversations about how that might play out -- if you would just check with my office before you go, we'll make sure you get up-to-date information on that in a timely manner so you can be heard.

Wallace: Thank you.

Hales: Thank you all, thanks very much. Good afternoon.

Rose Marie Opp: Hello. My name is Rose Marie Opp, I reside at 1339 SE 130th.

Fish: It's hard to hear you up here.

Hales: Yeah, try to pull that microphone a little bit closer. The whole box will slide your way if you pull on it. There you go, that will work. Thank you.

Opp: When is my time starting?

Hales: After that. [laughs]

Opp: Thank you. Under approval criteria, we're talking protect resources. I think the big resource here is our water. I think the public needs to know that our elected officials have not been good stewards of the most valuable asset that we have in the City, which is our Bull Run water system. And I'm pretty much here today because it relates to our water

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being degraded. These open reservoirs need to be fully-functioning as a vital component of those, of that system.

Hales: So, Rose Marie, we need to talk about the demolition criteria. We understand there's --

Opp: Because when those reservoirs are demolished, the function of those open reservoirs -- which have provided healthy drinking water -- will be changed and gone.

Hales: That is a separate --

Opp: What got my attention at the Historic Landmarks Commission is that the Water Bureau said there was no change. There's change alright. We would be allowed they said to still keep that Bull Run water in the water ponds, but heaven forbid -- cannot even accidentally let that good water come to our homes. No, that's going to have to be drained into sewers. I'm sorry, but the elephant in the room here is our water which is dependent -- the healthy water of our community -- on the open reservoirs staying as fully functioning. Do you not understand that? When we use the water from the well fields, which has radon, the open reservoirs allow that radon to dissipate in the air. Now then we'll have the radioactive water coming into our homes, apparently.

But let's talk about goal nine. The general public is supposed to know about this and the federal Safe Drinking Water Act indicates citizens need to know about change in the water. I'm from East Portland. This isn't just a Tabor and Arlington issue. Stakeholders -- all people who drink this Bull Run water -- need to be informed.

And the worst of it is that our Council hasn't been on a good steward of public health in my book, because they don't want to have a discussion on this. They've thrown in the towel on this, which is really unacceptable. The public needs to know that New York -- it's very clear that you're not working for us, because New York has worked for their community. Senator Schumer went to EPA, communicated this was too great a financial burden for them, they got a reprieve until 2028. Senator Merkley when I asked him said he couldn't help because this Council hasn't asked him.

This is something that we need to understand -- and also with the microbrewery industry. This won't be able to be covered up forever. It's going to come out. It's going to harm citizens. You talk about children -- this is quite hypocritical when you aren't concerned about the health of our community.

Hales: Thank you. Good afternoon.

Daniel Berger: Hello. My name is Daniel Berger, I'm a physician specializing in emergency medicine actively serving in the greater Portland community. Thank you so much for listening to public testimony on this important matter, I think there's definitely a significant lack of trust from the public in all these proceedings.

As with Mt. Tabor Park, the public feels their involvement to discuss needs or alternatives for these projects has been avoided, allowing us only to engage on the "what goes on top" conversations. It is not empowering to discuss fences and stuff like that when there's much larger issues at play.

Portland Water Bureau administrators have publicly stated, quoted, "designing and building is glamorous, maintenance is boring." Well, that may be well and true but it's the responsibility that comes with being true stewards of our public resources. In the process, Portland Water Bureau is selling out the soul of our city with overblown projects not needed, putting us further into deep, deep debt spending money we desperately need elsewhere and don't have in the first place, as well as jeopardizing the health of our citizens and our children for generations to come.

It is worth pointing out once again that the rush deadline to complete these projects is fabricated by the City, and a letter to the MTNA land use chair Stephanie Steward by Eric [indistinguishable], water enforcement coordinator of the EPA -- he reiterated there is

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no federal deadline to disconnected the reservoirs. The only federal deadline was to submit a plan by April 1st, 2009 and that was compiled a long time ago, albeit without public input. The City can submit a new timeline to the OHA containing a more reasonable and community-approved plan.

Also, like Mt. Tabor Park, there are significant land ownership issues being brushed aside in the haste to get these corporate contracts underway. Both Mt. Tabor and Washington Park consist of numerous different lots owned by either Portland Water Bureau -- i.e., ratepayers; or Portland Parks and Recreation -- i.e., taxpayers. Both projects -- more so at Mt. Tabor, but definitely true of Washington Park -- have Portland Water doing work and building infrastructure on land owned by Portland Parks and Recreation. This will prohibit any future use of these by the parks, yet no transfer of deeds, consolidation deeds, easements, or anything has been obtained and recorded.

If Portland Water Bureau rent payers intend to build project on land owned by City taxpayers, it needs to compensate the public. This has been repeatedly brought to the attention of all parties by Portland Water Bureau's engineering surveyors and the City's own legal counsel, but these facts seem to be ignored. To proceed with either project would seemingly be illegal. In other words, it would be like digging a well on your neighbor's property. On this basis alone the application should be denied until the land use and deed issues are resolved. I implore to you please uphold the pledge to good governance and representing the will of the people and not our corporate contracts. I beg to you fight tooth and nail to delay these projects, they are not needed. [applause]

Hales: Folks, folks. Hey. Mr. Walsh, remember the rules? Thanks. The rules are we -- thumbs up is fine. Clapping is not.

Novick: I wanted to note two years ago, when I was briefly Water Commissioner, I asked the Oregon Health Authority if they would extend the schedule, give us an extension as Rochester, New York had gotten one from the state of New York, and they said no.

Opp: Well, ask again -- [speaking simultaneously]

Hales: I have to ask you both to stand down, because this is an interesting topic but we've got to stick to the criteria. You've given us an issue or two --

Opp: When can we discuss these important critical matters?

Hales: I'm sorry?

Opp: When can we discuss these important critical public issue matters?

Hales: I don't know, but this is a Historic Landmarks and demolition case. So, we've got to stick to the criteria. You've raised some issues here like land ownership and deeds and easements that I want to ask questions about, so I appreciate your testimony on those issues because those are germane. We've got to be very careful how we do this because we're required to be.

Berger: Absolutely. May I please answer one thing, though?

Hales: Offline elsewhere, please.

Berger: OK. Thank you for your time.

Hales: Thank you.

Floy Jones: Good afternoon, I'm representing Friends of the Reservoirs. That is the organization that placed these reservoirs at Washington Park on the National Register of Historic Places -- the reason why we're here having this hearing, just like we did with the Mt. Tabor reservoirs. I submitted nine pages today speaking directly to the criteria. As has been stated by many people, the Water Bureau hasn't met the criteria for demolition.

It's only in an Orwellian world of doublespeak -- and the Water Bureau has suggested that they have considered the value of the open reservoirs. Why is it that in presenting to the Historic Landmarks Commission or BDS, they failed to provide them with

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the 70-page report -- the historic structures, Washington Park historic structures report, Reservoirs 3 and 4 that was prepared in 2010? Why was that?

Hales: You're saying that's not in the record -- I'm sorry --?

Jones: Well, I've submitted it to the record, you know, at the last minute. And we've been stakeholders, we've been acknowledged by every commissioner -- Mayor Potter, Erik Sten, Dan Saltzman -- for years. We've not been contacted about this process. So, it has not been a good public process, it's only been about what goes on top, what happens after you demolish.

But if you read the first page of this report, the reason why -- to answer my own question, was is it that they didn't present this to the Historic Landmark Commission? Because they want to present the reservoir as dilapidated. But what it says that they were carefully designed and built for durability and low maintenance. Those considerations have allowed the structures to age gracefully. Electronic measuring or pipe control supplement historic resources instead of replacing them. Concrete finishes on the two gatehouses and structural damage at the pump house have been previously repaired. It goes on and on. But the bottom line in all of this -- it says that they are generally in good condition.

As others have stated, you can go through goal by goal and there's misrepresentations. And I don't necessarily blame BDS, although, who do you have as the applicant for the Water Bureau? A BDS employee who was brought over to the Water Bureau to work on non-mission projects. So, that was set up so you could have BDS working on both sides to expedite this process so that we're not addressing alternatives. The public has never been able to meaningfully address the many alternatives.

The risks from seismic are indeed overstated, and FERC, the federal energy regulatory board that addressed the small hydro plant that was at Mt. Tabor, they sent a letter to the Water Bureau that was an example of how the Water Bureau overstates risk. Those are much larger tanks, as you know. Fifty million gallons on Reservoir 6, 35 each. The reservoirs up at Washington Park are very small, and I've submitted many documents to Amanda over the years that show through our excessive research, dam reports, that if was an extensive seismic report, the anticipation was only minor leaking. Well, those are huge reservoirs. So, if there were a catastrophic event at Washington Park, the damage would be limited given the significant construction techniques that were used in building these reservoirs.

So, in the nine-page document I went through goal by goal and where information was lacking from the Water Bureau to BDS. They are absolutely wrong in terms of just simple things, on even the little things like access. I mean, I submitted the resolutions to you -- some of you might have been here -- Dan, you were here in 2006 where a resolution was brought to Council -- we're updating the reservoirs. They opened the access to the reservoirs, I was there for the grand celebration -- I sent you the press releases.

In addition to the document, I have sent, you know, probably 10 emails over the last few days, with documents that supports the --

Hales: I think those are in the record, yeah. Thank you. And I appreciate your written testimony as well. Thank you. Mr. Johnson?

Charles Johnson: For the record, my name is Charles Johnson. And I would just say that I live in the commons, but I think that we've totally destroyed and obliterated any commons.

Since we're kind of constrained to the issue of land use and this permitting and demolition, I find it ironic that there's been obstruction every time anybody has tried to mention traffic concerns. That's part of demolishing something -- the equipment of demolish has to come in, and --

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Hales: That's right, but state law doesn't allow us to consider that because we, under Oregon land use law, don't do individual environmental review on projects. So, it's the way we do things in Oregon, it's not our idea here at this dais.

Johnson: OK. And when we cut short Commissioner Novick's comments about the Oregon Health Authority -- you know, this is a litigious city. We'll sue a federal judge to not have to say what we're doing on racial justice so why don't we tell the Oregon Health Authority to sue us and mobilize the National Guard to make us do what they think that we should do with our reservoirs? It's just ridiculous. The reservoir system is functional, it's historic, it shouldn't be tampered with in any way, whether we put one or four feet tall fences around a reflecting pool that it's just -- you should be embarrassed, more embarrassed than you were yesterday when the giant cardboard heads were here.
[laughter]

Hales: I wasn't embarrassed. But keep going.

Johnson: Thank you, Mayor. So, I just really encourage you to do whatever it takes to send this -- just give up the project. Don't make it go to the court about land use. Don't give us more employment for people in the City Attorney's Office, just stop. The water system is find the way that it is. No boogie man is going to come from Washington or Salem and make us change the water system. If you wanted to be great City Commissioners, what you should look at is improving the capacity of having more storage of more Bull Run water in more places in the city instead of just messing with the perfectly fine system that we have. Thank you.

Hales: Thank you. Mr. Czarnecki, welcome.

John Czarnecki: Thank you, Mayor and Commissioners. I'm John Czarnecki, I'm an architect and past chair of the Landmarks Commission.

Hales: And Floy, if you'd do him a favor and slide that whole box a bit over that way.

Czarnecki: Thank you. I've been thinking about this for a long time, but I came here today with a change in mind. Initially, I fully supported this project. I'm modifying my position a bit, as I think you'll hear.

I submit that approving issuance of this permit for demolition runs counter to the intent of approval criteria in 2.4, which requires the evaluation in light of the Washington Park Historic District. The district nomination states that the most defining principles of Reservoirs 3 and 4 is the open expansive water 40 feet deep. Because of the great depth and towering firs that surround them, the water is a rich, deep blue. Now, you'll see that I'm really talking about Reservoir 4.

Public purpose will be well served by maintaining integrity of the Washington Park Historic Reservoirs District, yet that integrity is threatened. Sensitive restoration and preservation of key elements is proposed, yet the central issue of demolishing Reservoir 4 remains. This demolition does not set legal precedent. It does set precedent for the perception of value we bring to our publicly-owned historic resources.

Improvement of the public infrastructure is critical. Sometimes, that improvement is surprising and may not be evident. In order to maintain and enhance the character of both reservoirs and the district as a whole, I suggest that the Council ask the applicant to return with a scheme for Reservoir 4 that enables it to hold water at historic levels.

Whether they are buildings, parks, or other public amenities, we should treat historic resources as we would any other resource -- directly and as valuable precedent for successful future development. We should understand their extensive qualities, conserve them, and use them wisely to enhance our environment.

I ask you to deny the application for demolition of Reservoir 4. Please ensure that this precious resource is worthy of conservation for continued use to enhance the visual and atmospheric character historically intended for this portion of the park. The reflection is

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not just the wall and the pump house, but the sky and the depth of water is more than the reminder of the past but a continuity of critical public experience. Thanks for your stewardship, and for forward thinking on behalf of us all.

I have a brief quote from Frederick Law Olmstead. It is not simply to give the people of the city an opportunity for getting fresh air and exercise. It is not simply to make a place of amusement or for the gratification of curiosity or for gaining knowledge. The main object and justification of the park is to produce a certain influence in the minds of people and through this, to make the life of the city healthier and happier.

I don't know if you all got this handout, but there's three images here of Reservoir 4, and then on the back is a quote from the National Register nomination. Thank you very much.

Hales: We did get that. Thank you, John, thanks very much. Thank you all.

Moore-Love: The last person who signed up was Mary Ann Schwab.

Hales: OK, Ms. Schwab, come on up. I saw her -- oh, there she is. Good afternoon.

Mary Ann Schwab: Good afternoon, Mayor and City Commissioners. For the record, my name is Mary Ann Schwab. I serve on the Southeast Uplift board of directors working on the comp plan 2035, street fees, housing demolition regulations, and preserving beautiful sequoia trees 36 inches in diameter -- for a few examples.

Today, I speak to you as a private individual however, as Southeast Uplift has not taken a stand on this particular issue. Today, I am here to specifically address the lack of adequate outreach to the impacted neighborhoods and to ask you to table this process until a real outreach has been done. Please table this for another seven days so the public watching this on TV have a chance to write their concerns pro and con.

I want you to know on Saturday, March 28th, my friend and I rang doorbells, talked with homeowner, and hung door hangers on neighbor's front doors. The homeowners that we spoke with were surprised to learn 30,000 trucks would be rambling in front of their homes, over a four-year period. In addition to the construction challenges, public safety impacts, limited access to site for deliveries and materials removal, worker parking on narrow streets, and noise issues, one thousand pile drivers, truck traffic --

Hales: I think you're talking about construction, not demolition, so --

Schwab: I'm talking about public safety, as related to the demolition. You can't demolish something without that connectedness. And I'll challenge that law in court down in Salem if I have to.

Why were the neighboring homeowner so poorly informed? The BDS public information signs were placed along a busy Burnside street, hidden by vines, one at the entrance of the tennis court. Surely, there would have been better places to place them. More neighbors would have read them had they been placed on near the MAX TriMet bus stop or the path to the park's water fountain. But really, no one driving East Burnside stops to read illegal posting. The signs came up short of that "city that works" with red flashing lights.

So, what might go wrong next? Cement trucks squeezing down residential streets where students ride and bicycles come, skateboarding around corners? The door hanger I've attached -- this is what we passed out on people's doors. We cut and paste what was given to us during the -- what did they call that crazy meeting? The sounding board. The sounding board meeting. We were there in October. I called to get copies of my minutes and my testimony so I could attach it here -- it's not posted online. There's been a hiccup on that one, too.

I want to leave you with one thing. Please, please keep this open for seven more days due to lack of adequate public outreach. I am requesting that this be tabled. And I want to leave you with a quiet prayer from Native American Indians -- Mitchell

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[indistinguishable] -- religious leader. We have a duty to the land in which we live. We all come from the earth, we return back to the ground. And the cycle of life, everything is born always is connected with water. Water is the giver of life. We had the best that there is on the planet. People are out there, and check out bullrunriver.org.

Hales: Thank you very much.

Fish: Thank you, Mary Ann.

Hales: Does that cover everyone who signed up to speak?

Moore-Love: That's all who signed up.

Hales: Anyone else? OK, come on up, Mr. Entwisle. Good afternoon.

Steven Entwisle: Good afternoon, Mayor and Commissioners. I'm just wondering -- my name is Steven Entwisle, I'm a member of the individuals for justice and I'm a whistleblower for the less fortunate folks.

The demolition of these reservoirs is not a good idea, and we demand that you don't do this for many reasons. As we've just heard tonight, we need to go -- we need to stop this. We need to look at this as a big picture. It's not going to work. The future is going to look at this if this goes through, and they are going to say, what a huge mistake those folks did in the past with our entire water system. Do we have -- am I a stakeholder in any of this as a private citizen? And if I am, what power do I have when we have quite the majority of folks here that says no to this. It makes me question this whole process, in its entirety. There's a lot of good people here that just want to keep their water the way that it is. We don't want to foul our water. This is going to foul the water. Forget about the white wash and all the pretty things you are going to put up there and the wheelchair access. I like wheelchair access. I like that. We should have more of that in the forest and everything else with this new design. But, don't foul the water. Don't take this water out. You want to do some improvements in the park, that's great. We can maintain what we already have, we don't need to destroy anything. We really don't. And people have testified about that also. [beeping] Thirty seconds. As a stakeholder in this decision to consider the destruction, the demolition -- demolition of something so vitally necessary and as pure as it is. The water is pure now. It won't be when this construction is finished, thank you.

Hales: Thank you. Good afternoon.

Herschel Sole: Good afternoon. Herschel Sole, I live at Northeast Portland. You know, we have global warming is a problem and to do the construction projects that are necessary is contributing to the problem -- I just want you to know that. I want to read something about a comment by a friend, Steve Novick here.

A Friends of the Reservoir public records request of OHA's documents and communications related with Commissioner Novick's 2013 reservoir deferral request reveal that --

Hales: I'm sorry, could you state what that's about again?

Sole: Yeah, we were talking about a request for the deferral for this project.

Hales: No, no, I'm sorry -- you have got to stick to the criteria. You've got to stick to the criteria for a demolition.

Sole: The criteria for demolition?

Hales: Others people have done a good job, it's just important that we keep that record solid because no matter which side you're on the issue, we have got to do it the right way.

Sole: Well, I'm disappointed a little bit because the little kids are supposedly here to see democracy in action, and we're not getting to see democracy in action, we're getting to see how the aristocracy gets its way every time. Thank you.

Hales: Thank you. Alright. Let's get the applicant back up for rebuttal, and I also have some questions for the applicant based on testimony.

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Greg Winterowd: Hello, Mayor Hales and members of the Council. I'm Greg Winterowd with Winterbrook Planning. We helped put the application together. Nice to see you. I have a couple of comments. First, we agree with the request --

Hales: You're coming in a little bit quiet there -- we'll get Karla turn it up.

Winterowd: We agree to keep the record open for seven days. There's a lot of new material. We'd like to look at it and make sure that we have time to respond in a thoughtful way.

The second thing is to clarify the approval criteria. We do need to balance the goals and policies of the comprehensive plan and show that the demolition is supportive, but section 33846880 also talks about ways you do that. And the ways you do that is ask, "what will replace the demolished reservoirs?" So, that is critical to the criteria. There isn't a separate set for demolition that does not involve what will be replacing the demolition with. That's why we spent so much time in looking at the replacement development.

Tom Carter, Water Bureau: I'm Tom Carter with the Water Bureau. One of the issues raised in the testimony was asking about the purpose of demolition review, 33445330. And what the citizen asserted was that the public has not had an opportunity to consider the alternatives to demolition. And so, we ask that you consult with your attorneys about the meaning of that particular provision in the zoning code, because we have regarded that as that the venue is the demolition review, and that the current proposal comes out of previous work done by the Water Bureau and previous decisions made by City Council. And so, this is the time at which people have to consider and propose alternatives that meet the requirements. But I think that is a question that the City Attorney's Office may need to consider about how that provision is interpreted.

Hales: OK.

Carter: Or, advise you -- excuse me -- advise you.

Hales: OK. Other points before we get to questions?

Elliot: I'm actually here to help answer questions. I have another couple people to give a little bit of rebuttal --

Hales: OK. Let's do that, and then we'll get you back for questions.

Peter Meijer: Good afternoon, Mayor and Commissioners. I'm Peter Meijer from PMA architects, we are the historic consultants on the team. I'd like to specifically address the comments on the historic structures report and whether or not that was considered in this process.

That's a very important document, and it served as a baseline for the continued work. Our office actually referenced that document in moving forward, and we augmented it with additional primary information in which we went on-site, as well as researched the changes over time that had occurred particularly on the basins. We augment it with current structural conditions of the concrete to see if the repair was an option, and we also augment it with additional laboratory analysis so that we knew of the composition so that when we did repair the structures.

We concur with many of the points of the historic structures report, particularly that they are in good condition, and that's why they are being preserved -- particularly gatehouses and the dams -- and so, we are working with that historic structures report. I just wanted to clarify that we considered it, it's an important baseline, and we are using it moving forward.

Hales: OK. That was one of my questions. So, the portions of the report that referred to the elements of the site being generally in good condition were referring mostly the gatehouses and other buildings and dams that are being preserved but not to the reservoir structure itself that's proposed for demolition?

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Meijer: Correct. That is where the focus was, because obviously when the report was done, the reservoirs had water in them and the basin -- the bottom of the basins couldn't be seen. As well as what we needed to augment was the number of changes that have been made to the basin parapet walls in the process over time, and the number of times that repairs have been made to those portions of the reservoirs.

Hales: OK. Thank you.

Fish: Mayor, let me follow up on that. We had a comment from someone who testified about the fence around Reservoir 3. Could you address that?

Meijer: I can't remember the specific comment, but we --

Fish: If it was needed.

Meijer: [laughs] I think it's a broader comment, and the best way to address it -- that has always been a question from day one whether the fence was needed. We had a tour of the facility even before we did the briefing for the Landmarks Commission. Members of the public were on that tour, and that fundamental question was asked, "is the fence needed if it's no longer public drinking water?" So, we have worked through that issue, and the Bureau of Water sees it as a protection of the public, so more of a -- not drinking water security but protection. And so, we have reused the components of the historic fence, but it has been a fundamental question on whether or not it's been needed or not needed. We see the retaining of the historic fence as important to the character-defining features moving forward.

Fish: I'm glad you said that. It sounds like there's two issues. One is, does it provide a safety function? And reasonable people can probably agree or disagree with that. What you just said is actually more important to me -- that you believe it relates to the historic fabric of the reservoir.

Meijer: Yes. And it has been a criteria that the State Historic Preservation Office has wanted to see retained as well for that as we reason.

Fish: Thank you.

Hales: That will be built of reused materials if it's built?

Meijer: Yes. It's eight feet high now. You saw the images. Those components will be used again and lowered so it won't -- yes sir, go ahead.

Saltzman: There was testimony about Erik Nagle about a new fence? Are we talking about the same thing?

Hales: I think we're talking about the same fence.

Meijer: We are talking about the same thing.

Saltzman: OK.

Dan Hogan, Water Bureau: My name is Dan Hogan. I'm project manager with Portland Water Bureau on this project, and I'm also a registered professional engineer and geotechnical engineer. I wanted to discuss a bit about the landslide and the seismic vulnerability of the existing basins.

The claim that the slide is stabilized isn't quite true. It still creeps along at a bit more of an eighth of an inch a year. And over 20 years, that's three inches; 50 years, seven inches. The basin can't handle that, and that's one of the reasons that we had rebuilt it over the years.

Hales: So the movement of the slide is distorting the basin?

Hogan: Yes, and the parapet walls. If you go out there today, you can see the fences are all leaning over. So, the slide is a concern and any professional engineer would agree with me on that.

Hales: But yet, the buildings have been described as generally in good condition. And are they less affected by the slide?

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Hogan: They are not in the slide area. The slide reaches down into the western part of the reservoirs. All the buildings are on the eastern side.

Hales: Both reservoirs.

Hogan: Yep. Correct.

Hales: OK.

Hogan: In a seismic event, we've analyzed how much the slides's going to move --and our model was based on what we are proposing to build -- and we're looking at anywhere from a foot to two feet of movement, and we would expect something similar if not more in the existing state. That would mean those reservoirs' walls would have moved one to two feet, and that's not going to hold the water. And that's not even speaking to the structural integrity of it. They're not designed to today's seismic codes or any seismic code whatever. The original design I believe had rebar every 10 feet as opposed to 16 inches, which is more normal.

Hales: I have some other questions, one which is for you, Mr. Meijer. John Czarnecki made the case that criterion 2.4 -- his understanding of it really has to do with the depth of the water and therefore the color of the reservoir as seen by the public, and that that's -- he considers that significant. Was that question considered or if a shallow reflecting pool would be the same experience for someone visiting the park and enjoying the spot? If it's shallower versus deeper water? It's a legitimate -- seems to me, a legitimate question.

Meijer: It is a legitimate question. I think if you step back and look at the context of the historic district, there are several character-defining features that are important to the district and make them up, and the nomination listed those -- not only the structures, but what the atmosphere, as he Mr. Czarnecki related. And deep water was one of them.

The fact that there is water is critical to that. We had studied the opportunities to do that and felt that that was not an overriding one to retain. So, we recognized the loss of deep water but we have still maintained the district and the character of the district. Water will still be visible from those important spots, particularly the Olmsted view from within Washington Park. So, we felt that the relationship of the actual gatehouses to the water was more important than the depth of the water.

Hales: OK.

Fish: This issue has come up before in other contexts. Did you consider any other factors, like the cost of maintaining a facility with the deeper water, the potential health impacts of the water that's not potable and may or may not be circulated on a regular basis -- those kinds of things?

Meijer: Commissioner Fish, I'll have to defer that question to Teresa or someone else who can study -- the answer of the cost issue on that.

Elliot: Could you repeat the question?

Fish: We've been talking about some specific questions about the listing, but were there some other technical feasibility issues about the depth of the water that you took into consideration?

Elliot: No, we did not look at that.

Fish: Good answer. Thank you.

Hales: I have some other questions that came up from testimony here, and that is there was an assertion -- a couple times, Mr. Fernandez among others said that we've had significant rainfall events that did not cause any kind of catastrophic movement of the landslide. So, have we overrated the potential of the landslide being a structural problem? Again, we just heard it's still moving and distorting the reservoir, but I assume some of the basis for this proposal -- this proposed demolition -- is the potential for catastrophic danger, not just incremental movement? I want to make sure that I understand that correctly.

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Mike Stuhr, Water Bureau: The landslide --

Hales: Put your name into the record, Mike.

Stuhr: Sorry -- my name is Mike Stuhr, I'm chief engineer of the Water Bureau. I'm also a geotechnical engineer from Stanford University and I'm licensed to practice in Oregon and California. I have a couple of comments on seismic things, but one thing that I want to do right away is talk about the reservoir.

If we left the reservoir as it was -- 40 feet deep, whatever it is -- we wouldn't have a place to put the reservoir underneath it. So, if you maintain a reservoir that we can't use for whatever purpose, there's no place to put that volume of water in a protected facility. And without moving the entire piping system to some other location, possibly condemning land at some other location, we had to take the volume that exists and use the majority of it for the tank that's going to be underneath of it and put the water feature on top. So, that's important to recognize.

The landslide. There's about four million tons of dirt in that landslide. Most people have seen the Empire State Building. It's like 14 or 15 Empire State Buildings full of dirt, and it's moving. And if that landslide pushes hard on the concrete, it will win. So, when we design the facility, we try and fix it so that landslide will not push on the new facility because it can crush the concrete. So, that's why the occlusion is in there.

Is it a huge concern? Well, to me, I don't like to talk about these matters like that. It's a concern. It's a concern like liquefiable soils, weak foundations, differing rock types -- it's just something to consider in the design. And we have carefully considered that. We've put enough space in there that we can go through this maximum credible earthquake, which also includes a subduction zone earthquake, and have enough space left there that the reservoir will be functional and we can do what we need to put the occlusion back.

Regarding the seismic event itself -- I spent the morning speaking at the American Society of Civil Engineers Structures Congress talking about seismic resilience. And right now, there are 18 bills in front of our legislature dedicated to trying to help the state become seismically resilient. Unfortunately, it's kind of a good news, bad news story -- earthquakes in Oregon. The good news is, we don't have them very often. The bad news is, we don't have them very often. And the reason that's bad news is that most of us have a hard time getting our minds around things that we haven't experienced.

It's much easier if you've gone through it. You don't have a tough sell in Los Angeles or the Bay area. Here, we're lucky. Our earthquakes -- large ones -- are infrequent. But there's a 37% chance of a magnitude six or greater earthquake in the next 50 years in Portland and it is worth thinking about -- and it's worth designing, too.

Hales: Thank you. A couple other questions that were raised in the testimony. Mr. Berger raised the question of land ownership. Is it clear that we have the right applicant here -- that the Water Bureau is the right applicant?

Stuhr: We've discussed this in detail internally, and we've had it reviewed by Terry Thatcher. The ownership is in the hands of the City of Portland. The City owns the property. The City Council apportions responsibility for various pieces of property and can change that apportionment. But as long as that land is owned by the City of Portland, where it came from and what kind of parcels it is is almost irrelevant. It matters among the bureaus to sort internal funding out but as far as the ownership is concerned, it belongs to the City of Portland, and there are no issues with it.

Hales: OK. Thank you. Sorry, going back through my notes from the testimony to see. Citizen involvement, again this is -- somebody said that this is not democracy. Actually, they're right -- this is a quasi-judicial land use hearing. So, sorry folks that this is very stylized, but we have to make sure that the procedures have been followed and make a decision based on the evidence in the code.

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One of the requirements is that the public involvement be properly conducted. So, state law requires certain people be notified -- not, I believe, everyone who is affected by a potential decision. But I just want to double-check that, and it might be a question for the City Attorney or it might be something that needs to be addressed if we hold the hearing open longer. And that is, given that people beyond the immediate vicinity of the usual perimeter of the land use case are affected by this decision -- or potentially affected by the decision -- was notice proper? And again, I won't ask the City Attorney to answer a legal question like that on the fly but I want to put it at least up.

Fish: Well, Mayor, we do have the benefit of a 25-page summary in the record of a two-year public outreach, and I've actually never seen something like this -- maybe because we don't have a lot of these proceedings.

Hales: And we had testimony that it was extensive and --

Fish: And it has actually the -- it has it down to the areas where project information booths were held, where things were posted, postings, posters on page 17 with dates, websites -- I'm not saying this meets or doesn't meet our standard, but it's pretty extensive.

Hales: Yeah, OK. We might want to get that question reviewed. I think that may cover the points that I had -- and again, there have been requests to hold the record open, so Council should discuss that in addition to any other questions that somebody else might have. Other members of the Council have questions for the applicant? OK. Then, I'm going to close the public hearing, but we'll decide the question whether we're going to keep the record open or not? What's the Council's pleasure about that?

Saltzman: Does that mean we just have deliberations after the record closes?

Hales: I think we have multiple options there.

Leitheiser: Yeah, the Council has discretion to either continue the hearing to a date certain or to leave the record open -- and we typically do sort of a seven-seven-seven three-phase aspect of that. And again, Council does have Discretion as to which of those to choose but I believe there were a couple of requests that to me sounded more like leaving the record open. Typically, we'd leave it open for seven days from today for any party to submit additional evidence, testimony, or argument. Following that, there would be another seven day period for rebuttal evidence testimony or argument. And following that -- and at that point, the evidentiary record would close, and there would be another seven-day period for the applicant -- which has the burden of proof -- to submit any written argument. And again, that's not necessarily evidence, but --

Hales: I guess I'm not used to us going that through that convoluted process. We have in other cases held the record open and given people a chance to provide further information or even rebut -- I've had a request to rebut statements that were made here late in the hearing. So, I'd certainly be open to a seven-day extension in order to give people a chance to rebut anything they've heard or reflect on anything they've heard and then give the Council the opportunity to deliberate and decide, but I haven't been through that seven-seven-seven sequence before.

Fish: Mayor, I would propose -- and we've done this in other land use proceedings -- out of an abundance of caution, particularly when people have said during the hearing that they would like that chance to have an additional last opportunity to put something in writing -- and since this Council takes that very seriously -- I would propose we keep the record open for seven days and we set a Time Certain now for us to come back for the sole purpose of deliberating.

Hales: As actually we did just in the previous case this afternoon.

Fish: does that present any challenges in the timeline of the applicant?

Elliot: It depends on what you're asking for [inaudible] --

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Fish: The proposal we're considering is that we would keep the record open for a week and then come back shortly thereafter for the purpose of rendering a decision.

Elliot: So typically, my experience in land use is you keep the record open for seven days for new information, and then we as the applicant have seven days to rebut any new information. Are you proposing that or are you excluding that?

Hales: We're proposing to do what we did in the previous hearing, which is we've closed this hearing and we're going to give people a chance to respond to anything they've heard and to provide that response in writing to the Council through the Council Clerk. We'll consider it in our decision.

Leitheiser: Mr. Mayor, sorry to interrupt -- and I'm not sure what happened in the matter that was before you at 2 o'clock --

Hales: OK, hope we did that right!

Leitheiser: I'm sure you did -- but I can't really speak to that. But I do think it's important to -- I mean, it's a little bit difficult because you can end up talking about a cycle that never ever stops, and I understand that concern. But there's the matter of say leaving the record open for additional evidence, and then the rebuttal opportunity that comes after that is important. And again, as Commissioner Fish said, perhaps this is an abundance of caution and I understand the expediency issues, but in my opinion, a little extra process and opportunity in these cases is never a bad thing.

Hales: OK.

Fish: So, to the applicant -- if we had a one-week extension for people to submit comments and a one-week period to rebut and we came back shortly thereafter, would that adversely impact any timeline you're operating under?

Elliot: No, we could work with that.

Fish: So Mayor, that's what I would propose. Seven, seven, and then get a Time Certain out shortly after the 14 days for the purpose of deliberating.

Hales: I like that. Is that alright for the rest of Council? So, let's look at the calendar please and set a date for Council's deliberations. Everyone needs to understand that we're not going to continue the public hearing, we've completed the public hearing -- but we're going to give anyone here or elsewhere in the community the chance that wants to provide written response or written testimony in addition to what's been provided here to send to the Council Clerk. Copies will be made for everyone on the Council. We'll review that and then give a chance for the applicant to rebut anything they choose to rebut. So, that would be two weeks from today, right?

Moore-Love: Two weeks from today would be May 7th.

Fish: What's the next Wednesday, Karla?

Moore-Love: The Wednesday after that is the 13th, and it's pretty booked already. And you're gone, Commissioner Fish, in the morning.

Fish: Can you fit us in in the afternoon? What's at two?

Moore-Love: IPR code change and a possible heritage trees.

Fish: Mayor, can we bump it -- we've done this before -- can we put it at two?

Hales: Yeah, I think given what she just described, it's not going to take all afternoon. So, let's set it for some time that afternoon.

Moore-Love: We can do it at 2:00 p.m. that afternoon. And you said the testimony closes in a week, which would be April 30th.

Leitheiser: And just to clarify -- if I may interrupt again -- seven days from today is April 30th, so I think what we're talking about is having the first seven-day period expire at 5:00 p.m. expire on April 30th and then having another seven-day period for rebuttal evidence that would expire at 5:00 p.m. on May 7th. At that point -- 5:00 p.m. on May 7th -- the evidentiary record would be considered completed and closed.

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Hales: Right. And then the Council will deliberate and decide the case on the 13th.

Leitheiser: Correct.

Hales: OK. Everybody clear on that? If so, then we'll continue this proceeding on that basis. We are adjourned.

At 4:14 p.m., Council adjourned.