

**City of Portland**  
**Noise Review Board**  
April 1, 2015  
Transcription

Present: David Sweet (Chair), Melissa Sweet, Kerrie Standlee, Julie Greb, Carol Gossett, Paul van Orden (Noise Control Officer)

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**SWEET:** Good evening. This is a special meeting of the Noise Review Board to hear comments on some proposals we have made for code changes. I assume everybody has had a chance to review those. I am also assuming that everybody's had a chance to sign in at the back table, and there are two sign in sheets. One is for everybody. The other is for those who wish to testify. You probably wish to testify if you're here, but we would like to get your name on both sheets then. It will be helpful for the wonderful people who will be transcribing the testimony from tonight's hearing. I have been advised to limit people's comments to three minutes. I don't like to do that, but I – and I hope I don't need to, but I will ask you to be concise, state your points, responsive to hopefully the proposal that we sent out, and this proposal is not yet cast in concrete. We are here to hear what you have to say about it, and on the basis of what we hear tonight, we expect to make recommendations to the City Council. So we're listening carefully, and when you testify, I would like you to come forward, state your name for the record, and offer your testimony. Please don't repeat yourself. Please don't reiterate points that have already been made. So let's begin. Who wants to be first? Maybe we'll go home early.

**ULAKKO:** I'll go.

**SWEET:** Thank you.

**ULAKKO:** I'm Garth Ulakko and I'm with DeWitt Construction, and I've been here a couple times before. I would like everyone here to know that DeWitt is a drilling and pile driving contractor and that we do more auger cast piles in the Northwest than our competition combined. However, like our professional geotechnical engineer has stated at two of these meetings, the auger cast piles, or drilled piers, are not recommended for all of the Pearl. At the first meeting I came to, I heard from a few Pearl residents that there was constant pounding. When I went through our driving logs for the project, I found the longest we drove pile for in an 8-hour period was for 3 hours and 50 minutes, which for 14 pile, which I stated this at the last meeting, was an average of 16.42 minutes of driving at a time. Once this was brought to light, the Pearl residents said that this pounding of 16.5 minutes of intermittent pounding and quiet is worse than the constant pounding that I heard of at the first meeting. We also just completed a driven pile project at Southwest River and Moody with apartments and condos on two sides, and I'm curious how many noise complaints did the city receive from that project?

**SWEET:** I don't know, Garth.

**COUCH:** We haven't received any.

**ULAKKO:** Any. Okay. So it kind of makes me wonder why in the Pearl and not at Southwest River and Moody. So I find it strange that with all the noise complaints from the Pearl project that no one can tell us what the decibels were. Also, how can we make recommendations to change construction practices because it is noisy, but we don't know how noisy, but we still need to change. Maybe before we make changes, we measure the noise inside and outside of the buildings, of adjacent buildings, to see exactly how loud the noise actually is. That's all I've got.

**SWEET:** Okay. Thank you, Garth. Okay, bring it. You can come two at a time. We've got two chairs up here.

**MYERS:** My name is Willy Myers again. I'm from the Columbia Pacific Building and Construction Trades Council. I came before you once before and told you that we would oppose any more further restrictions to construction noise ordinances. It's already restricted to Monday through Saturday, and restricting and taking away Saturday will limit the amount of construction that can take place in the city. If your goal, as stated in the letter on the back to control an already overcrowded neighborhood, I think this is the wrong way to go about it. The fact that there is construction noise means that our city is growing and the economy is back on track. It has been derailed for several years, and it's good to have our members back to work, and we'd like to keep it that way.

**SWEET:** Any questions?

**GREB:** Yeah, what would be the right way to do it then, if there's already overcrowding.

**MYERS:** The right way to control crowding?

**GREB:** Yes. Well you said noise restriction is the wrong way.

**MYERS:** Well let's build taller buildings.

**GREB:** Build taller buildings.

**MYERS:** Absolutely.

**GREB:** Okay.

**UNKNOWN MALE:** Amen.

**MYERS:** And build a lot more of them.

**SWEET:** Well I'm curious, Willy, about your assertion that restricting the hours of pile driving as we proposed would mean fewer buildings would get built. Can you...

**MYERS:** If you're going to limit the amount of time that it takes – that we have available to drive piles...

**STANDLEE:** Um-hm.

**MYERS:** ...which is already limited. We've already got a limit and ordinance set. If we limit that even further, that means less buildings will be built. That means less piles being driven. Less buildings will be built at one time because you're going to have all your equipment waiting to go to work on Saturday. It's going to be stuck at a site that you can't use it on. You know, so it's – you're limiting the time that construction can take place. You're shortening the window that you can actually build. You can't build when it's – well I mean you can build when it's dark – but a lot of times we like to have safe job sites so our members can go home at night, and we want to do it during normal working hours so we're not keeping everybody up all night.

**SWEET:** I note in some of the written testimony that we have gotten that some have argued that it would take longer to build a building with these new restrictions, and I get that, but I'm

kind of – I guess I’m missing the point that there would be fewer buildings built or fewer people working. I’m not sure – I mean I assume you’re concerned with the number of people who are employed in the trade.

**MYERS:** Absolutely. I represent the most skilled, most productive workforce in the country right here in Portland, and they are the union men and women of the construction building trades. Limiting and telling us that we’ve got another window that we have to meet is just – I mean it’s preposterous.

**SWEET:** Okay. Any other questions for Willy? Thank you.

**SWEITZER:** Good evening everybody.

**SWEET:** Good evening, who’s first?

**SWEITZER:** Tiffany Sweitzer with Hoyt Street Properties. I had the pleasure of spending a couple hours today at City Council talking about this issue already, and ultimately I think this is where it’s going to go, so wanted to give you some food for thought. One, I appreciate Kathy. She has really been great at communicating and getting the word out. We both agree, I think, that we need to do a better job to the development community, and they are starting to weigh in now. You may have received some letters already, and hopefully more by Friday. This is fairly new to all of us. We know the pile driving complaints, but to start changing some of these – or change the code is, I think, a bigger issue, and Doug Shapiro, who was here at the last meeting, and talked about and to some of these things, and I’d like him to do that, as well. I think the biggest issue here has been – well first let me go back. I think it’s great – isn’t it great we’re working again? Isn’t it great to see tower cranes? And unfortunately we have the complaints, but to have progress again, to have people working? And I think that’s somehow getting lost in all of this. This particular issue has come about we started out – we being Hoyt Street Properties – with 34 acres of property. So isn’t that great? What do you do with an old rail yard? And our discussion years ago – 20 years ago with the city was to build a thriving neighborhood, and the city helped us. They were our partners all along the way. You had the developer who wanted to do the buildings but was a little uncertain about if we could do it or the density or the market, and everything that came with that. And then you had the city that was willing to put in the infrastructure, and street cars and parks, and as a result we have one of the most successful neighborhoods in the country. And along the way, that took a lot of time. It took a lot of noise. It took a lot of money. And then we got to this point the last five to seven years where nothing happened and people were being let go, and we didn’t have all the people that are here today on jobs, and we sat. We sat for five to seven years wondering what we were going to do next. And keep in mind we’d built by this time 14, 15 buildings. So we started to see the market improve and we started two projects. Two of the projects that you heard testimony on are mine. One, Block 17, and one, Block 15. A condominium project and a rental project. And the biggest issue is they’re right by one another. You know, typically when we’ve been building, there’d be a project here and maybe one here, but one is here, one is here, and another developer is building right here. I should’ve brought my map today. Another person is building down here, and we know that there are some that will be coming. But nobody’s surprised by that. When they bought into this neighborhood, whether they rented, they bought, or it’s an affordable housing project, you saw 8 acres of vacant land. I’m not sure what you thought was going to happen, but we had the luxury of quiet, and we don’t have that anymore. So the good thing is, there’s progress. The good thing is, we’re building. But now to

start hampering that, whether it hours, or notification, which we've always done anyway, so to me that's kind of a moot issue, is something that I think we need to take a very serious look at, and when recommendations are made to City Council, realize that you already heard a gentleman speak to that that yes, time is money. This will take longer and the process will be extended. So we can get it done in the 30 or 40 days it takes out of a two-year process, or we can stretch it out. It costs us more, it does hamper development in many ways. It costs the contractor more, there are safety issues involved, and those are some of the things I'd like Doug to talk to you about because I'm not as well versed in that. But to take away the Saturdays, you know, just alone we think about things like the tower crane. Putting that up. When is the best day to do that? Would that be during the week? That is a huge endeavor. What about if we have days where we can't work whether it be due to weather or any other reason? We need that additional day. So there are a lot of reasons. Not just, oh, the developer's going to make more money because they're going to get there more quickly. There are safety concerns, and so I wanted to talk about the bigger picture and why we're here tonight. It's great to me that we're making noise again. At the same time, we want to be cognizant of our neighbors. We notified them very well. All of our buildings have the same property managers. Notice goes out and every single building, whether it be the elevators being posted or the garbage rooms. In the case of Block 17, they had a website. So there's a lot of notification. We have a lot of people come. They know where we all are because our trailers are all together, so nobody hesitates to come over and give us an earful or sometimes people compliment and bring things to us. So that's nice, as well. But I wanted to just kind of paint that picture and then have Doug really talk to you about the Saturday issue because I think it is a big one and one that we need to tackle. The others like today, David, to be going to City Council to listen to grievances, is probably not a good idea. I would agree with that. So if there was a board that we could go to, but beyond that, I think that the hours are a bigger issue. So I just wanted to speak to that and ask for your help on productivity.

**VAN ORDEN:** One quick question.

**SWEITZER:** Yeah, Paul.

**VAN ORDEN:** So in reading some of the testimony that's come in, we're in a difficult position as a board because there's been a criticism from the community that we're not moving fast enough, and then the same entities that have criticized that we're not moving fast enough now said that we're moving too fast. So I'm comfortable with that. That's been the role that I play in this position for almost 20 years now, but I would enjoy hearing your perspectives on how we've been doing with outreach or a lack of outreach that – what do you think would be good for the development community, because if in fact the citizens are saying we're moving a little bit too fast and you may also be offering we're moving a little too fast. Do you think if we came to some conclusions today and had another meeting before we went to council that would be helpful, or do – I'd love to just hear your general thoughts on that.

**SWEITZER:** Well, it's painful. So I think the sooner we can get to resolution, keeping in mind that this issue has just come about because there's concentrated construction in one area right now. You heard today, you know, I'm not hearing this on Division or Williams or South Waterfront – I don't know if that's true because that will be the next thing. Once you start some place, it opens it up to a bigger – so while we have the concentration on this and the groups that are talking and writing letters, let's come to some resolution if there is one to be

had versus stretching out the – because we'll be done and the next job will be starting, which is great. But we've got Conway, we've got other projects that are in the neighborhood, so that would be my thoughts, and I'm surprised to hear you say that some of the people testifying would want it to be shorter because they were the same people saying we've been in this process so long and nobody's listening to us, so I don't know why we would...

**VAN ORDEN:** I think, understandably, because we first heard this – was it back in May when we had the visit from a number of citizens – that it is approaching a year now. So I understand from the community that, you know, when we took on leaf blowers, that literally took several years to get to the point. When we took on garbage trucks and exploring that, that was literally Kerrie and I and other folks chasing garbage trucks at 1 or 2 in the morning on and off for years to come up with proposals. So this is interestingly in a bureaucratic cough-gasp world is moving a bit faster, but not necessarily fast enough for the community. So I'm just trying to explore how do we find a balance for what works for the industry, what works for neighbors, and how do we get to the point where we have something, so that's just great to hear a perspective that maybe if there is something we can get moved forward so Council can make some determinations, that might be helpful if that sounds like what you're saying.

**SWEITZER:** Yes, it is. Thank you.

**SHAPIRO:** Doug Shapiro, Hoyt Street Properties. Tiffany took most of my time anyway, but...

**SWEET:** Not timing you, Doug.

**SHAPIRO:** I think at least the critical path for me is the schedule. That really drives the whole impetuous behind a project, and when I saw your proposal, the 7:30 to 5:30 and no Saturdays, a major flag went up at least from my perspective...

**SWEET:** Good, thank you. Please.

**SWEITZER:** 8 to 5.

**SHAPIRO:** 8 to 5, right, sorry.

**SWEITZER:** I want to make it clear.

**SHAPIRO:** These we aspirations that we were looking at. And I think the last time we were here we talked – DeWitt talked to great length about their process, and he actually reiterated it just now about how many piles are driven in one day, and if you take that component out – if that five-day duration is shortened even by 20%, it takes that exponentially further. So instead of that 35-40 day duration I mentioned last time, it takes it into 50 plus days of I think even more intrusive in that respect. So that Saturday becomes that float day, which really is a critical path as far as we're concerned. It's that day that allows us to make up that lost time and any given schedule. So taking out that I think really is a real detriment to any project. Not even the time factor – like I said before, time is money, so if you elongate that, it has more of an impact on us, which I think you can understand the ramifications of that.

**SWEITZER:** And one of the questions that I was reminded today that Commissioner Fritz asked, and I just want to put it on record, she felt like well why can't you do it later in the day? Why do you have to start out so early? Really I don't understand. So one of the contractors did a great job of explaining how long the duration is. We're not talking about a couple hours, so we start out...

**SHAPIRO:** Right. Well it's set up as we heard before – the setting up of equipment takes so many hours to get into place, so once it is in place, you can drive a pile, then you reset, you reposition, and that all takes time. 17 piles is a lofty aspiration as far as I'm concerned. You

shorten that up to 10 or 12, when you're driving 300 plus piles in a foundation, do the simple math. It takes that much longer. So I think what you're doing is you're actually impeding the process that much more. I think, you know, going back to what you said previously, it's notification. It's about awareness. And maybe it is something as simple as these are the days we're driving piles. These are the times that we're literally putting equipment into the ground. That to me would be the most pragmatic way to approach this.

**SWEITZER:** But the driving itself is more than 2 hours in a day.

**SHAPIRO:** Yes. I mean cumulatively it's three-and-a-half to four hours when you put it all together, but it's strung out from 7 in the morning until 6 at night.

**SWEITZER:** So if you choose to do it later, obviously that's going to disrupt other things, so that was one of the questions asked, and I realize that maybe that had not been explained.

**STEWART:** You know, forgive my ignorance, but don't you have to pay time-and-a-half on Saturdays, and if you own the equipment that sits idle, it's not the same as if you're paying for a rental that you're not using, right? So how does the...

**SHAPIRO:** If it's negotiated into the job, it's not time-and-a-half.

**STEWART:** How is that true?

**SHAPIRO:** It's six to eight work weeks, so it all depends on how the job is set up.

**GREB:** How many months it's set up, up front.

**STEWART:** Okay, so people who work six days a week don't get any overtime then is what you're saying then, right? No? That's not true?

**UNKNOWN MALE:** It's a contractor issue, not a developer issue.

**SHAPIRO:** We wouldn't see those costs.

**SWEET:** They don't hire the laborers.

**STEWART:** I get it.

**SHAPIRO:** It's built into the project, so they have a certain duration. So there's a milestone...

**SWEITZER:** It's a good question though.

**SHAPIRO:** A milestone timeframe. Whether it's 40 days they have for that project, and if whether equipment broke down, they need that extra time to make that up.

**GREB:** So here's a question. So if contractors aren't allowed to work on Saturdays, then they take that risk out of their numbers to you and then you get more cost certainty from your bids, right? It's maybe one extra week longer...

**SWEITZER:** Yeah, it's going to come around another way.

**GREB:** ...but ultimately your pricing – the contractor's not taking the risk, right? I mean if you're going to use that argument, there's a counter.

**SWEET:** We'll give you an opportunity.

**SHAPIRO:** I'd like to hear his perspective because...

**SWEET:** Yeah. I'm sure we're going to hear it.

**SHAPIRO:** Because that is the perspective.

**GREB:** Right. So anyway...

**SHAPIRO:** But it is not a simple math like that, Julie. I wish it was.

**SWEET:** Okay.

**STANDLEE:** I have a question.

**SWEET:** Yes, Kerrie.

**STANDLEE:** I was reading over some of the material before I came, and one of the things that Joe Westin put in that I thought, oh, this is something maybe – the issue is not that you can't do pile driving between certain times when teams start setting up, so if we had a period of – if you were allowed to start setting up at 7 just like on a normal day, but you didn't start impacting, hammering until 8:00, is that possible?

**SHAPIRO:** 7:30 I think would be more of a pragmatic approach to that. I think that's realistic from our duration. It takes them at least a half an hour to set up.

**STANDLEE:** For the first pile.

**SWEITZER:** The guys are on the site before 7. Well before 7.

**SHAPIRO:** That's right. They're there at 6:00 in the morning, and they're getting ready for, you know, as soon as that clock hits 7 they are actually working.

**STANDLEE:** So they're starting out between 6 or 7 is what you're saying?

**SHAPIRO:** Right, but Kerrie, not driving piles until 7.

**STANDLEE:** I understand. I'm just saying that right now they're doing work during the non-work construction time.

**SHAPIRO:** Correct.

**STANDLEE:** So it's just something that – what we're trying to limit is the length of time the driving occurs. That the actual impacting occurs.

**SHAPIRO:** Right. The actual repercussion of the hammer.

**STANDLEE:** The noise generation that we're concerned about.

**SHAPIRO:** Correct.

**STANDLEE:** If the other noise is in compliance with...

**SHAPIRO:** Exactly right. Setting up equipment is not intrusive as far as decibel level.

**STANDLEE:** Right, that should not be regulated by pile driving criteria. So I guess I'd like to hear from the contractors too about if we've got three hours of impacting going on working piles...

**SHAPIRO:** Three-and-a-half to four hours, right.

**STANDLEE:** How much time is there for setup for each of those piles? Just, you know, go through the math.

**SHAPIRO:** I'm going to speak...

**STANDLEE:** I'm not asking you, I was just throwing...

**SHAPIRO:** At least from my perspective, I think it's more like half-an-hour to 45 minutes at least to set up a rig for each pile. So you do the simple math, take one out, and these are massive rigs you've got to maneuver through a very small matrix to set up and then start drilling again, but I'll let them address that.

**GOSSETT:** So I was wondering how long you've been working in the Pearl District.

**SWEITZER:** Well I used to be proud to say the number, and now I'm kind of embarrassed by it. About 20 years.

**GOSSETT:** Okay.

**SWEITZER:** Started with the first building. The name of our company is Hoyt Street Properties because we started at Hoyt Street, and the property we own goes to the Fremont Bridge.

**GOSSETT:** And it's my understanding that over the years the city has continued to rezone that area for high-rise and to create more urban fabric.

**SWEITZER:** That's correct.

**GOSSETT:** So in fact we've made considerable changes in that area to create the high-rise that we're looking for.

**SHAPIRO:** Yes.

**SWEITZER:** That's exactly right. And the neighborhood for the most part has embraced that. When we started out, we were very criticized for you can't build a five-story building. Are you kidding? You know, not in our neighborhood. And it took a lot of time, trust, working with the neighbors to hear what it is the likes and dislikes were. Similar to this issue. I can't think of another neighborhood where you can give more input, attend meetings, sit on committees whether it be noise or safety or designs and buildings, and so we spent years – I spent years listening to that and working with, whether it be homeowners as we grew or businesses. But, yes, you're correct. We were at 75 feet in a 2 to 1 FAR. We now have unlimited height with the support of the neighborhood, and we're capped at a 9 to 1 FAR.

**GOSSETT:** And that's been over a period of time that that's occurred, so it has just continued to grow.

**SWEITZER:** And it was little bits at a time. So the 75 went to 150, and then we were able to north of Lovejoy talk about denser buildings and taller buildings as long as it wasn't the mass on a block, and so I think that was a two-year process we worked on with the Bureau of Planning and we did charettes and had a lot of neighborhood involvement.

**GOSSETT:** The other question I have is if there is an increase in cost to build these buildings related to what we're talking now, I assume that that gets passed onto the consumer.

**SWEITZER:** Yes, it does.

**GOSSETT:** And one of the things that I've been concerned about is the fact that we're creating an environment where only so many people can live.

**SWEITZER:** That's right.

**GOSSETT:** I mean what happens to moderate income people?

**SHAPIRO:** That's right.

**GOSSETT:** I think they have a right to share the street in Northwest Portland as anyone else, and so I'm wondering, you know, what kind of impact these costs will have on the cost of...

**SHAPIRO:** It's a cumulative cost, Carol. Not even just to the cost of the pile driving component that is added to that, it's the SUC fees that are...

**SWEITZER:** Going up 118%.

**SHAPIRO:** We have done charts that literally from – when I came on board 10 years ago to where we are now, I think it's five or six times multiplier. So you're right. Those costs are...

**GOSSETT:** They just go right to the consumer.

**SHAPIRO:** Correct.

**SWEITZER:** In hindsight, one of the things that was done very well, and none of us knew it at the time, was how to create a neighborhood. So even though the Pearl gets labeled as "I can't afford to live there", there's actually quite a bit of affordable housing. I didn't quite hit 30%; it's 29%, as well as rental housing, and that mix and that diversity is what creates that neighborhood. But, yes, you're right. Everything will continue to go up.

**GOSSETT:** Okay, thank you.

**SWEET:** Let me ask you an unfair question.

**SHAPIRO:** Yes, okay, good.

**SWEET:** Are you ready for this?

**SHAPIRO:** I can count on you for that.

**SWEET:** All right. In some jurisdictions, pile driving is permitted seven days a week. If we were here talking about limiting you to six, would you be making the same argument that it's going to make everything take longer and cost more?

**SHAPIRO:** Limiting me to six if I had seven in my hands already.

**SWEET:** Yes.

**SWEITZER:** Sure.

**SHAPIRO:** Of course. Like anything else. I mean that's really unfair.

**SWEET:** I know. I warned you. You could've refused to answer. I mean I do understand, and we understand when we proposed this that we are talking about – and we deal with this trade off on the board all the time. People – the Bureau of Environmental Services came to us and they said we've got to dig a 30 foot hole in the middle of Cesar Chavez Boulevard, and we can only do it at night because we can't stop traffic. So we need 30 consecutive nights to do this. And we said you can't do that there. That's ridiculous. And what they ended up doing was getting it done in less than a week working round the clock.

**SHAPIRO:** Right.

**SWEET:** Because that way it got done faster. But in other settings it might be better to spread the work out over a longer period and not have the daily impact. So it is something that we're aware of. That there are tradeoffs there with noise and speed. So I mean I want you to know that we consider that.

**SHAPIRO:** Yeah, and I want to go on the record by saying that, you know, it's not like you're giving us every Saturday to drive piles. I mean for me, I'd rather not drive piles on Saturday. It means that we're not being efficient. So point being is that if I can get 14, what I really want to get is 20 piles a day and then have it go for five days and we wouldn't need to work on Saturdays and take a day for infill of other work. Where I'm sure my contractor would be enamored with that aspect for multiple reasons. But to take away that float day is really problematic, and again, you're not giving us a latitude to drive piles every Saturday. We're not saying that. We're saying that having that availability is really what we need.

**SWEITZER:** But you have the option of applying for a variance if you have issues with not having a Saturday that you truly do need, right?

**VAN ORDEN:** An interesting question, but I think what we just talked today is what the board members wouldn't know is we chatted with council that the fact that we are really trying to be sensitive about weekends, and so it would kind of a mixed message to tell – you know, you can't pay us more money, and maybe you can.

**SWEITZER:** Okay.

**VAN ORDEN:** It's a tough one.

**SWEET:** I mean yes you can always apply for a variance where...

**SHAPIRO:** And sequentially for us, it's really problematic because as you know this is a day-by-day operation. If a piece of equipment breaks down on a Friday and my contractor makes that decision literally on a Friday afternoon, we need to drive piles on Saturday, I would never get – I would lose my queue in that process. Clearly.

**VAN ORDEN:** Or I think it would cause ill will with the community because they'd say, wait a minute, we just said we're going to limit pile driving. Why is the Noise Office going in with

three days notice, and it's going to hurt your entity in terms of people who are going to say this giant corporate entity doesn't care about us.

**SHAPIRO:** Right.

**VAN ORDEN:** It's not going to help anyone in this case.

**SHAPIRO:** Yeah. It doesn't help anybody in that respect.

**SWEET:** Other questions for these folks? Yes, Kerrie.

**STANDLEE:** I want to investigate just a couple other questions. So if you were able to go longer on weekdays in trading for...

**SHAPIRO:** Deal.

**STANDLEE:** ...no Saturdays.

**SHAPIRO:** Give us until 8:00 and we'll be fine.

**STANDLEE:** Now the only problem is in the winter. So you get 4:00...

**SHAPIRO:** We got lights.

**SWEITZER:** Oh, that's another issue. Get ready.

**STANDLEE:** I'm just saying it's a crucial tradeoff that if you had longer workdays on the weekdays...

**SHAPIRO:** Potentially, yes.

**STANDLEE:** Because I was reading some material from the neighbors where they were proposing the quiet weekends, have all the work on the weekdays...

**SHAPIRO:** Right.

**STANDLEE:** Maybe we say, okay, well extend the hours on the weekdays to allow that to happen.

**SHAPIRO:** 6 to 8? That's fine.

**STANDLEE:** Washington County has until 10 p.m. on their construction.

**SWEITZER:** I'm looking at these two because we talked earlier and I didn't notice that in your letter, but that could be a solution as well.

**STANDLEE:** Is that a possible tradeoff for the Saturdays?

**SHAPIRO:** Potentially, yes. You know giving us a half-an-hour more really doesn't make much of a difference.

**SWEITZER:** I want to know what they say.

**SHAPIRO:** I mean half-an-hour is really not going to do much in the scheme of things just because of shear setup and what it takes to do one pile.

**STANDLEE:** Right. Once you're set up and your ready to go, the longer you can go is actually better, I know.

**VAN ORDEN:** So I'm going to offer the board a thought because we have in the past when we've brought certain things forward to council, we have offered options, so the interesting thing is one thing that this dialogue is bringing to light tonight is if we feel like we were moving a little bit fast and we want to make sure council realizes there are options on the table, that might be a wonderful way to finalize a set of recommendations in some sense where we offer two options in that way testimony brought forth to council makes it clear that people would prefer one or the other. So that's something to keep in mind tonight because we have done that in the past.

**SWEET:** Okay. Other questions for these folks? Okay.

**SHAPIRO:** Thank you.

**SWEITZER:** Thank you.

**SWEET:** Thank you both. Come on down. Sure, both of you. Come on Joel.

**CULVER:** So I guess I'll start. I'm Zack Culver with Labors Local 296. I'm a Business Representative and we represent about 3,000 members. I guess I'd like to start by saying they covered a lot of things very well. I think the 6 p.m. to 7 a.m. ordinance is restrictive enough. I think that being a construction worker in the Pearl on projects such as the Metropolitan, the Wyatt, the Encore, and Street Car Lofts, you know, all those projects in that Pearl area were I think successful projects. Howard S. Wright was one contractor and then Andersen was the other contractor that I had worked for. The benefit is for our construction workers in the community down there. I mean there's a lot of guys, they're traveling early to get to work early to avoid traffic issues, and it's the same thing with deliveries to the job site. You know as a foreman, you're ordering concrete and it needs to be on time so we can get these pours done on time, we can get our material on time, things like that, and the further out we push those times – I mean the highways, we've all been on them. They stalemate and it's hard to get those deliveries on time and you're forcing that day if you shorten it, we're not going to get our work done during the day, and that's for all aspects of the construction. We also have our members – and I seen in the paperwork – legal holidays or city holidays. Our members do not observe all those holidays. So if we put those holidays in, then our members are losing money because when they don't work, they don't get paid. Those are something that I think are very important to our members. MLK, Columbus Day, Presidents Day, Veterans Day are all days that we don't observe. I mean, we observe Veterans Day, but we traded it for the day after Thanksgiving, so those would all be lost days and lost wages. So Saturdays are moneymakers, and I think they're moneymakers for everybody in the community and our workers. We do get time-and-a-half on those days. The contractor either has to absorb that cost, figure it into his bid somehow, but we do get time-and-a-half, usually Saturdays, you know, it's a day we get in and we work and then we go and spend money in that same community we're working in because we bring our families in. We go to dinner. We do things – you know we hit the local pub that's right there. After work. I'll clarify that. So those Saturdays being time-and-a-half, I mean that's what feeds our families. That's what provides Christmas presents for our kids and things like that. SO these projects – all those projects that I spoke about provided good money for my family with good overtime hours and restricting those hours of work – I know it's only for pile driving. This is what we're talking about, but what's next? You know, the backup beeper on a concrete truck? It makes noise early in the morning? And that's a safety thing. We can't turn those beepers off; they have to be on, and you go from one thing to the next and pretty soon we're not able to start any work before 8:00 and those projects are going to take longer and that's about it.

**SWEET:** Okay, thank you, Zack. I'm glad you understand we're just talking about pile driving here, and there is no conspiracy to limit the hours of other types of construction nor are we proposing any change in the regulations regarding legal holidays. The holidays that are listed in Title 18 have been there since 1976, and construction activity has been limited on those days since then. We've been living with it a long time, but we're not proposing to change it. Just so you know.

**CULVER:** Okay.

**STANDLEE:** And I would just like to ask the question of if the overtime is the issue for you, if you're having more hours during the weekday, you're going to get overtime because you're going to exceed the 40 hours.

**CULVER:** Yeah. Anything over 8 hours in a day under our contract, the guys are going to get overtime, so...

**STANDLEE:** So it doesn't matter if it's a Saturday or a Monday or Tuesday, Wednesday, or Thursday.

**CULVER:** Well and I mean if you're working until 10:00 at night and coming in at 6:00 in the morning, your efficiency is going to go down.

**STANDLEE:** Yeah, but I'm talking about the pay though.

**CULVER:** The pay is going to be – but the efficiency of the project...

**STANDLEE:** And you're double time on Saturday.

**CULVER:** We would get double time after 12 hours in a day. And can I add one more thing real quick? I've been around pile driving. They're broke down about as much as they're working, so not quite that bad, I know, but there is a lot of breakdown and delays that are caused by breakdowns, and that is one thing schedule-wise, you know, having a longer day would benefit that aspect, but the Saturdays are critical to make up lost time.

**SWEET:** Thank you, Zack.

**BURT:** Joel Burt with DeWitt Construction. I spoke last meeting...

**SWEET:** You did.

**BURT:** And I made a statement about allowable noise for 8 hours and that it wasn't damaging and that OSHA would allow that. I assumed that everyone knew I was talking about hearing loss not any other impact that it might have, so I just wanted to clear that up. Apparently it wasn't clear from reading some of the notes. Anyway. I have a brief written statement I'd like to submit, a written testimony. If I could read this, it would summarize some of the things.

**SWEET:** Sure.

**BURT:** Regarding the board's written letter dated March 20<sup>th</sup> stating the background and rationale for changing Title 18 code, it appears that some relevant testimony did not get cited that should be noted before the city council takes action. By restricting the hours available for pile driving and eliminating Saturday work, which under the current code is allowed as testified will result in extending the duration citizens will be exposed to the very noise the board is trying to minimize. The number of piles that can be installed working six days versus five days can shorten a project as much as 7-10 days. It was also testified that the average pile driving projects in the downtown, specifically the Pearl District, only last three to four weeks. Restricting the hours of driving precludes contractors from working 10-hour days resulting in prolonging the time pile driving contractors will be on the job. Restricting pile driving to eight hours precludes the contractor from working four 10-hour days. The benefits and efficiencies of four 10s are well documented. It would also greatly reduce the noise exposure to citizens with a three day respite from pile driving if we could work four 10s. The effect of reducing the hours of pile driving and eliminating Saturday driving will have the opposite effect of increasing the time citizens will need to be exposed to pile driving, and for these reasons, DeWitt is opposed to any changes to Title 18. Now having said that, I guess the fundamental question that Garth alluded to was this appears to be – these changes are coming about as complaint driven versus data driven because we do work literally all over the city. We were

down at the Waterfront District for two years. We did the Mirabella. We did OHSU. We did most of those buildings. To my knowledge, we never got any complaints. That may not be the case, but it never got back to us. We've done most of the big buildings down in the Pearl District. We literally haven't gotten any complaints until this year, and then everything started to snowball. So I'm a little curious, if this is complaint driven, shouldn't we have data that supports these changes? And maybe this board is all about complaints. I don't know. But it would seem like to me before we change existing codes and regulations we should have some backup data.

**STEWART:** What sort of data are you talking about? What would you like to see?

**BURT:** Well you can't tell us what kind of noise is occurring in the residences. Yes, it's annoying. Yes, it's aggravating, but so is traffic noise and so is garbage trucks and leaf blowers.

**VAN ORDEN:** So the challenge there. One of the things that is lost in this big dialogue is one, I would disagree in so far as we have had complaints on most pile driver projects in the city at some point, and a complaint is a relative term for me because if someone calls and says they're doing pile driving, what are my rights, and we say well it's an exempted element, then they're not going to formally file a complaint. We would still see that as a clear concern that pile driving is impacting them. The challenge in South Waterfront is we're only in recent years getting to the point where we have the densities of the Pearl, so I wouldn't expect that we would have the problems there that we would have in the Pearl, and the challenge in terms of data, there is pretty clear data all over the place of pile driving. That was the question the community asked. Why don't we have noise readings? We did go out and take noise readings. We were reaching up to 109 at 50 feet, and so the question becomes at what point does this dialogue – I mean we could extend this dialogue for an extended period, but I think what this board recognizes is there is definitely a notable impact in dense neighborhoods from pile driving, so respectfully when we do go to Council, we are going to have to talk to what data is ready clearly recognized on pile driving worldwide and what that means in terms of human health issues. I think this board recognizes that it is an impact. The question becomes how do we balance out the needs for the development community with the needs for the neighborhoods. So just trying to answer that question, we definitely haven't done this without a grounding that it is a notably loud activity.

**BURT:** Of course. And we also recognize that there's not really a way to mitigate that. It sort of is what it is. Again, I think the bottom line here is when you extend these hours, then you're having the net effect of exposing these citizens to the same noise longer periods of time. It would seem like to me it would be better to shorten the duration, and that gets back to schedule. Everyone says it's about a schedule, and it is, but I want to tell you that contractors really don't want to keep that schedule. They want to get out before that schedule. That's where they make the money. So if you've got a foundation scheduled, virtually nothing gets done until the foundation gets in. So that backs up everything downstream. So it's not just pile driving we're talking about. The iron workers, the carpenters, the sheet rock people. All of these people are impacted when we extend the period of time that you are on the job. As far as four 10s go, you're taking that ability away from us. We can't drive four 10s. It's just not possible. I wanted to address Kerrie's question earlier about doing work for non-driving. Well you're right. Once we set up. But we can start right at 7:00 because we can start earlier. That's quiet work trying to get set up. But when 7:00 comes, we can fire that hammer off. And there

are jobs where we do work four 10s and we work six days a week. There are plenty of jobs like that. Maybe not here, but – so you're taking that ability that now we have to do that – you're taking that away from us, and it doesn't just impact the pile driving but everyone downstream, and that's a considerable impact, and I think the City Council ought to be aware of that.

**SWEET:** I'm sure they will be.

**BURT:** Well I just have a couple of quick questions on your letter. Mostly the zoning. I couldn't figure out exactly what this zoning change means from EX to CM, and you mentioned that it would have the affect of having or reducing the noise by 10 dB. How would that affect pile driving?

**SWEET:** Well it would not affect pile driving because pile driving would be - like other construction activity - would be exempt from those levels during the hours when it is permitted. It would affect the sound levels permitted outside of the currently 7 a.m. to 6 p.m., Monday through Saturday, so any construction work that happens outside of those hours would be affected by the maximum allowed sound level at property line, and if the Pearl were all considered Commercial Zone instead of Industrial Zone, the maximum allowed sound level at property line daytime would be 65, nighttime 60. Currently it's 75, nighttime 70.

**BURT:** So in fact this does affect construction in general.

**SWEET:** It affects construction to the extent that the construction is occurring between 6 p.m. and 7 a.m. the following day and on Sunday.

**BURT:** Okay.

**SWEET:** Yes. To that extent it would impact. However, I don't think anyone here is going to argue that the Pearl is an Industrial Zone today.

**VAN ORDEN:** And the other element of it is the Noise Office has been vocal to Planning for a very long time that having had my life experiences back in the New York City area, that the Pearl District was never going to be with any vision to have industrial uses still existing with the mix we have today. Because clearly we are going to head in the direction we have today, which is primarily residential with ground floor commercial. So I've been arguing for at least a decade that this is a really bad thing to have Pearl District zones all EX because you're setting a higher decibel level than almost anywhere in the city, and it's one of the only areas in the entire city that is ubiquitously EX zoning, and so you're basically saying you can be as loud as being out in Rivergate where the Port of Portland is in the middle of the Pearl, and that makes no sense. So this is something where the board is trying to recognize the community members have had some notable impacts, and it won't really impact this particular element. It will balance out other elements that we're dealing with relative to noise. So it's trying to not just look at the simple issue of pile driving, but since it is something we could do pretty easily and it is actually for the public, it's more or less being proposed by the Planning Bureau currently in the comp plan and mixed use zone process and will come down the pike to City Council in about a year or two, so we're just ahead of the curve a little bit.

**SWEET:** It's just an acknowledgment that the current EX zone – the Central Employment Zone – is not used to develop industrial. In fact, heavy industrial is not permitted in an EX zone.

**BURT:** Right.

**SWEET:** And what it is used for is mixed use. Mostly residential with some commercial, and so it's probably inappropriate to regulate the noise levels as if it were an industrial use. That's all we're saying.

**BURT:** That clears it up. In regards to variances, you're proposing some changes to variances. Changing it from the City Auditor's office to the hearings officers.

**SWEET:** From the city council to the code hearings officer, that's correct.

**BURT:** So how would that affect – well first of all, I'm curious. Someone mentioned it earlier about a variance. If you take away Saturdays, that means we would need a variance to work on Saturday.

**SWEET:** Yeah, you would.

**BURT:** Right.

**UNKNOWN MALE:** Pile driving.

**BURT:** Pile driving.

**SWEET:** Pile driving, yes.

**BURT:** Like Mr. Shapiro said. If the duration of our jobs are three to four weeks and if something were to come up on Thursday or even a Wednesday, how would we get a variance? Virtually impossible.

**SWEET:** First of all, this provision is about how appeals of variances are heard.

**BURT:** Right. I'll get to that in a minute.

**SWEET:** It's not about how variances are issued.

**BURT:** I did backtrack here, but that's a legitimate question we have.

**SWEET:** So your question really doesn't concern...

**BURT:** Not yet.

**SWEET:** ...our proposal.

**BURT:** Well, it will. No, but the question is...

**SWEET:** So if you have an emergency pile driving need?

**BURT:** Or a variance period.

**SWEET:** Well a variance period will be – nothing will change in the procedure for a variance period.

**BURT:** Up to 45 days to get a variance.

**VAN ORDEN:** No that's Noise Review Board. So a few clarifications just to throw on the table.

**BURT:** Will you be able to issue a variance without the board meeting?

**VAN ORDEN:** Well a few things to clarify because I see a lot of new faces is within this dialogue we've been having, we have been moving just the Pearl District construction projects before the board before they may potentially be directed legally by the Chair to the Noise Control Officer, and so that is a temporary situation until we can figure out exactly how to best deal with accommodating the impact on the community and making potential code changes and so it would likely return to a situation where if you had a variance and it was deemed something that didn't need to go to the board, you could walk in and hand it to Kathy or Mary in our office, I would review it, we would try and make sure the community had a week or more to know it was happening unless you could make a really good argument that you did not have the time to be able to tell us that, and you would get your variance and the neighbors would be notified of what was approved. So that part of it wouldn't change. What would change is if you were issued a variance and didn't like what I gave you or what the Noise Board gave you, you would appeal to the Hearings Office or if the neighbors said they didn't like it, they would appeal to the Hearings Office, and that's intended to fix the issue that this one took an enormous amount of time to get scheduled with the Council and that doesn't do anyone justice because

you don't have any resolution of what to do next. So the Hearings Office should be able to, and we haven't ironed all that out yet, should be able to based on other cases that we have brought to them move a bit faster than being able to schedule before City Council.

**SWEET:** So actually you'll get quicker resolution this way.

**BURT:** Possibly.

**UNKNOWN FEMALE:** But a week wouldn't help you if you have...

**BURT:** As a contractor and as a business, we are concerned about, number one, getting a variance. If you're going to go to this extreme to take away our rights, then why would you give them back to us readily now? Today we have the ability to work on a Saturday, currently.

**SWEET:** Before 1976 you had the ability to work on Sunday.

**BURT:** Well, that was before my time.

**SWEET:** So I guess some of your rights were taken away then.

**BURT:** Okay, so then where does it end? But that's another story. But the question is variances. How readily are they going to be available? I think...

**SWEET:** Same as now.

**BURT:** ...Paul mentioned that – well maybe the people are going to be so upset that you won't issue a variance because too many people are against it.

**SWEET:** Same as now.

**BURT:** Same as now. Okay.

**STANDLEE:** A good question for you relative to that, Joel. What I'm hearing is that you really don't want to work on Saturdays.

**BURT:** No, that's not true.

**STANDLEE:** No, I mean what I've heard. Not you. What I've heard from other testimony is that we'd really would rather not have to work on Saturdays, but we'd like to have the opportunity to work on Saturdays. So if the opportunity is available through a variance, isn't that the opportunity?

**BURT:** If we could rely on a variance.

**STANDLEE:** When you say if we could rely on it. A variance is just a process by which we say with conditions you can do it.

**BURT:** No, there are times where you deny a variance.

**STANDLEE:** I don't remember – well the 25 years I was on the board before, I don't remember.

**BURT:** I remember a couple.

**STANDLEE:** There might be one. We try to seek resolution, and with conditions that are there to balance the impact.

**BURT:** Well I just want to let it be known that we're a little concerned that variance would be very cumbersome and not even practical in our line of work.

**SWEET:** Okay. Duly noted.

**BURT:** The last thing I wanted to address here that I was a little puzzled about was your noise impact zone. How does that affect - your aggregate environment sound region? How would that affect us?

**SWEET:** Probably about the same way it's affecting you now. Because right now I as Board Chair have declared that construction noise variances in the Pearl District will come before the Board instead of being issued over the counter by the Noise Control Officer. That's the sort of thing that we'd be looking at when we declare a noise impact zone. It allows people that are

affected by the noise to come before us and make a case. It allows us to hear your needs and establish appropriate conditions before a variance is granted, and it allows the decision to be adjudicated by a citizens board instead of by a single city official. So that's the sort of thing you would be looking at.

**BURT:** Okay. It is pretty vague on your criteria and so forth, so...

**SWEET:** Yes it is, and if we established a criterion that said every time there are X construction sites within Y distance of residential property that's a noise impact zone, if their building three houses in Irvington, that becomes a noise impact zone, and I don't think that's what we're talking about. It becomes difficult to define it.

**BURT:** Okay.

**SWEET:** So we are proposing that we reserve the right to make a subjective judgment about what is a deserving district.

**STANDLEE:** If I can interject, this does not go to Council.

**SWEET:** These are the board's rules.

**STANDLEE:** This is a policy that we would adopt.

**BURT:** That you're proposing.

**STANDLEE:** I have to say I agree with you, Joel, that for me at least the wording isn't there yet.

**SWEET:** Okay. I think we need some work.

**BURT:** As you know, when contractors see vague specs they throw a lot of money at it because...

**STANDLEE:** Right.

**SWEET:** Okay.

**BURT:** All right. Thank you very much.

**SWEET:** Thanks, Joel.

**HYKE:** Hello again. My name is Ryan Hyke. I'm one of the representatives with the Pacific Northwest Regional Council of Carpenters. I'm going to be reading something on my phone, so I apologize in advance. It will probably be awkward for you guys and myself. On behalf of the Pacific Northwest Regional Council of Carpenters, which represents nearly 4,500 working men and women in the Portland area, we urge any parties involved to not make any further changes to Title 18, Chapter 18.10 of the City of Portland Codes and Policies. In short, Title 18, Chapter 18.10 allows for noise exemptions on pile driving equipment except for certain hours. We believe the noise exemptions and mandated operating hours are equally fair to both local residents and construction firms. Pile driving equipment is a necessity on many construction projects. Driven pile creates a sound foundation for large-scale residential and commercial buildings. Portland is a growing city, and to accommodate said growth, our city will need to continue construction on multifamily residential buildings to meet the needs of our construction population – of our growing population, excuse me. While we are sympathetic to the concerns of existing residents that live near these construction sites, construction noise is merely an unfortunate side effect of living in populated neighborhoods in one of the fastest growing cities in the country. Our skilled pile driver members, concrete carpenters, and signatory contractor partners have one goal in mind. To provide a project which is structurally sound and safe for its residents in the surrounding community while remaining within noise ordinances and respecting the neighborhoods in which we build. Again we ask that you not make any changes to Title 18, Chapter 18.10 that will place citizens in danger by limiting the

types of pile engineers or construction firms may utilize or any further time constraints that will only serve to delay projects and extend the number of days pile driving equipment is used. When making this decision, ask yourself do you add time constraints thereby extending the number of days in a row pile driving equipment is used, or do you limit the type of pile allowed thereby placing hundreds of citizens at risk by utilizing unsafe foundation material? We the undersigned offer both safe and timely by opposing changing to the city code. Thank you. And it is signed by myself and our Communications Director, Ben Basom. Thank you.

**SWEET:** Thank you, Ryan.

**HICKERSON:** My name is Brooks Hickerson. I would suggest you get up and stretch because we've spent an hour and 5 minutes listening to the industry. I suspect you spend just as long listening to the citizens that have had to put up with the pile driving.

**SWEET:** Could you spell your last name?

**HICKERSON:** H-I-C-K-E-R-S-O-N.

**SWEET:** Thank you.

**HICKERSON:** I have submitted this in writing. I want to make sure – so you get the spelling right. I live at 1255 NW 9<sup>th</sup> Avenue.

**SWEET:** Brooks, did you submit that recently?

**HICKERSON:** I submitted it yesterday.

**SWEET:** Our office didn't receive it.

**VAN ORDEN:** I can double check it.

**HICKERSON:** I gave it to Paul. I sent it to Paul. Is that the wrong person to send it to?

**VAN ORDEN:** I can double check when we take a break in a bit.

**SWEET:** Okay.

**HICKERSON:** Is that not the process?

**SWEET:** When it goes directly to Paul's e-mail – and he gets a lot of them – it doesn't always get sorted out every day, but if it goes to the Noise Control office then...

**HICKERSON:** Well that's where it went. Noise Control office, yeah.

**SWEET:** Okay. Well the office didn't receive it.

**VAN ORDEN:** We can look when we take a break before we deliberate I can go get it so you can read it.

**SWEET:** Okay. Anyway, tell us what you've got to say, Bruce.

**HICKERSON:** I'd like to read it anyway.

**SWEET:** Yeah, please.

**HICKERSON:** I live at 1255 NW 9<sup>th</sup> Avenue in apartment 309 in the Pearl in a building called the Pinnacle. I've reviewed the proposed changes to the Title 18 Noise Code published by the Noise Review Board on the March 20<sup>th</sup> version, and I would like to thank the Noise Review Board and I'd like to thank the Noise Review Officer, Paul, thank you, for the work they've done in conducting public hearings, reviewing the ordinances from other cities, and also for gathering technical testimony in preparing the changes for Title 18. In my opinion, the proposed changes in the zoning and large areas of the city to permit the noise levels are long overdue. The zoning changes have been long overdue, okay. The areas like Pearl and South Waterfront should not be targeted to call Industrial, and that a Mixed Use Commercial makes a lot more sense. I also believe that the noise variance appeal process proposed changes are long overdue. It says the

appeal process directly to the City Council does not make sense. To go from the Noise Control Officer to the Control Board and to the City Council really makes sense. I appreciate you proposing those changes. I also support the proposed variance in the process, okay? Construction firms should notify nearby property owners and residents of construction noise before it starts. However, I have a few changes. First of all, I suggest that nearby property owners and the residents' notification be notified in all noise variance applications and second that a noise variance be required on all pile driving operations in sites. No matter even if it's 8 to 5, it's such a shock when the first noise – pile driving is so much different than any other construction noise. Once it goes above 100 decibels, it really is possible to ear damaging to young children and especially to old people like me. I do support reducing the time that the pile impact drivers are permitted from 8 a.m. to 5 p.m. five days a week. That makes sense. It doesn't have to extend the construction time. All you have to do is just do auger or something less invasive and you won't affect your entire construction time. It is a penalty, admittedly, on pile driving, but I think it's a penalty that maybe our community deserves and maybe we should permit that. I have one criticism of the process where they conducted the board. No construction consultants testified for the construction companies that have been using the quieter auger technology. I realize it's difficult to get construction engineers to testify, at least I thought it was difficult until tonight. You have all managed very successfully - you put some time limits in there and the guys come out. But by not hearing the auger technology companies talk about, you received a biased view of the impact pile drivers which are required in the soil conditions in Portland. I somehow doubt that because I've heard from dozens of construction sites in the last year, actually around Portland are all using this auger drilling technology and without any apparent problems or delays that I can hear of. If somebody gave us some problems that it took then twice as long with augers than it did with pile drivers, but nobody ever said that. Down here. I didn't hear it. Did anybody else hear this?

**GREB:** We talked about it pretty extensively last...

**SWEET:** We did in fact hear that, Brooks.

**HICKERSON:** You did in fact hear that? It does take longer with augers?

**SWEET:** Last month's meeting. That's what we heard.

**HICKERSON:** Oh, okay.

**SWEET:** From Doug Shapiro right there.

**SHAPIRO:** Yes.

**HICKERSON:** Okay.

**SWEET:** We had an engineer actually testify, as well, so...

**HICKERSON:** Now what's...

**SWEET:** It took longer and cost more.

**HICKERSON:** Okay.

**SWEET:** Yeah. And we did hear from a contractor that specializes in auger technology.

**HICKERSON:** That's good too. I really appreciate it, because those are the kind of hard tradeoffs that we have to make. That's why...

**SWEET:** Then we also heard from DeWitt that's done more auger piles than any combination of contractors in the Pacific Northwest.

**ULLAKO:** Yeah, our competition combined. It's not like we don't do this.

**SWEET:** We heard it.

**HICKERSON:** Well these are the hard tradeoffs, and those are the tradeoffs that the board has to make, and that's how come you guys get the big bucks, right?

**SWEET:** We get cookies is what we get.

**HICKERSON:** I believe that Portland can grow without the health impact of the impact pile drivers at all, and the limitation you played on them I think have been very practical and very reasonable. Now I've lived with the pile driving starting at 7:00 and going until 6:00 a.m., and it really does affect your health and sleep and your sanity. Trust me. Thank you.

**SHAPIRO:** You just said it went until 6 a.m.?

**HICKERSON:** Until 6 p.m. Occasionally it would run over, okay? It really did.

**VAN ORDEN:** Couple quick questions. I don't know the board is going to entertain it, but we have a few less citizens I see present than we had at the last meeting and some of the other meetings so there's not a ton of people to ask this question, but I'll ask both of you and anyone else who testifies. If the board were to explore longer hours in order to get them done instead of potentially leaving things the same, if those were two options on the table, would it be appealing to have them get done quicker by working from 7 or 8 in the morning until later at night like they do in other cities, or is that not appealing? I mean it would be interesting just to have any comments you might want to share as a neighbor in the community.

**HICKERSON:** I think the longer hours are really tough. They really are. 7:00 in the morning is tough enough. If you start at 5 or at 6 like they have – we've gotten a couple of variance in our neighborhood in the building close to yours when they're putting up cranes and stuff and it's really, really hard.

**STANDLEE:** Well we're talking about just pile driving.

**HICKERSON:** I know, just pile driving, but pile driving very early in the morning.

**UNKNOWN FEMALE:** Well it would be hard to eat dinner.

**STANDLEE:** The question is, would it be preferable to have longer in the weekdays and no weekend? No weekend. No Saturdays. No Sundays.

**VAN ORDEN:** Thank you for clarifying because I didn't do a good job.

**HANSON:** What comes to me is at 7:00 at the latest, 7 p.m.

**SWEET:** The transcriber's going to go crazy, so you better say your name.

**HANSON:** Patrice Hanson.

**SWEET:** Thank you, Patrice.

**HICKERSON:** I don't think a tradeoff like that works very well at all.

**STANDLEE:** Okay. Just wanted to know what your opinion was.

**SWEET:** Thank you, Brooks.

**HANSON:** I'm Patrice Hanson. I'm a Pearl resident. Well first of all, I just want to say that I was out of town for two weeks in an area where I had limited internet access, so I actually didn't get to read the proposal until about 4:30 this morning I was up reading it and then wrote something and sent it off to Paul, so I'm going to read part of that. And also I want to say that for me the issue has not been the general construction noise. It's going on all around me and it's fine. It's no big deal. It was the impact hammer pile driving specifically, and that I do believe that even though a lot of the comments were specifically about the Pearl District, that it actually applies to all of the City of Portland, and the Mayor acknowledged this and backed up that idea when we addressed the City Council back in June. He said that this is definitely an issue that needs to be looked at and addressed. Garth has said that we said constant pounding,

but I don't recall that ever being said. It was intermittent pounding throughout the day, and like Paul pointed out, the levels have been measured. In your proposal, you said that the spoils brought up by the auguring process must be treated as hazardous waste, increasing both the risk and the cost of using this method. So I've heard conflicting testimony actually on this idea. In fact, one of the developers said that they switched to the auger drill because it was actually more cost effective for them, so I don't really understand these kind of...

**SWEET:** Actually what they said was that they thought it would be more cost effective and it turned out not to be.

**SHAPIRO:** Thank you.

**VANADIA:** That's not true.

**SWEET:** That's what we heard.

**VANADIA:** They said it was the bottom line.

**SWEET:** That's what we heard.

**VANADIA:** Well what I heard was different.

**SWEET:** Thank you.

**HANSON:** Also we were told that they use the impact hammer on the Block 17 because of the contaminated soil, and I contacted the DEQ, and they told me that that soil had been remediated and was considered safe, you know, so again it's like conflicting, inconsistent information. Well Joel said that the projects usually go on for three to four weeks, well at Block 17 it went on for seven weeks, and then considering all the projects going up one after another and they were all planning to use the impact hammer, it would have been months and months of pounding, which had been really difficult not only for us but for the construction workers, and they spoke to me about that. I think it's interesting also that five of the sites that were planning to use the impact hammer then switched to the much more humane auger drill, so that is another fact that causes me to question the validity of the necessity to use that impact hammer. You know, if they all switched, you know – there was a suggestion made I believe that you made at the last hearing that the impact hammer be used only as the last resort when absolutely necessary and that this must be demonstrated by the builder, and I think due to the extremely negative effect of this technology on public health and the environment, I think this is a very reasonable suggestion, but I didn't see anything – I didn't see it included in the proposed changes. I do think the recommendation of pile driving to be allowed Monday through Friday 8 to 5 p.m. is sensible as long as it cannot be bypassed by variances, and notification to residences is really important. Tiffany Sweitzer said that they've been doing that, but I had no idea this was going to happen or what it was going to be and it just all of a sudden started happening, and I never heard anything about it. So somehow that has to be improved. That process. I think the zoning idea is a really good one. Changing the zoning makes total sense. And thank you for your time and effort in working on this, and like Brooks said, personally I would appreciate hearing from more providers of alternative technologies for inserting piles and I also would like to hear from a representative from the DEQ and people that are experts on the effects on health and the environment before final proposal is drafted so that the result truly serves the entire community.

**SWEET:** Thank you, Patrice.

**HANSON:** Okay, thank you.

**VANADIA:** Hi, I'm David Vanadia, a Pearl District resident. The thing that got my wife and I involved in our neighborhood was unlawful construction noise, and it's still the thing that we're most active about. We have lived in the Pearl for years. I sat through the Encore doing pile driving. We live right next to the Parker where they drove piles, and we never complained because it was legal. They did it within the legal hours. But then what happens is construction starts to – call it sort of construction creep – and it starts to go outside of hours. That's where it can become a problem, and I think as a citizen or as anybody that's here tonight, we've all heard the statement said many times that time is money. Time is money. And as a citizen I fully agree with that. When my time gets taken away, it takes away my money, as well. So when my time gets taken away though, that's time I never get back. Citizens never get that time back. And there was someone else that mentioned something about a give and take, and I would really like to see more give and take. I think that if someone's going to come into a densely populated neighborhood and drive piles, then they should know that they're going to have to deal with neighbors. That's part of doing business in a densely populated area. So in that case there's going to be a give and take, and as neighbors would do, one person gives a little, the other person gives a little. So citizens could deal with construction noise for a period of time, but if they're getting their time taken from them than they should be able to get something given back to them. Particularly, maybe some time. I personally am all for trying – a gentleman mentioned the four day, 10-hour days with three days off. I actually personally I like that idea particularly if there is notification required, and the reason I like the idea is because then I can know that for these three days during these particular times, I can just get out of the house or I can get out of the neighborhood. That would make a difference if that was proper notification, but part of the reason we've been so involved with the Noise Board and the Noise Control the past year, is because notification fails and it can't be enforced or it's not being enforced. And if we knew what was going on, we can plan a little bit better. And I realize that sometimes the construction companies don't realize what's going on, and becomes a problem for everybody ultimately. And that's why we're here tonight, I believe. One of the things I don't understand then is, if the construction company can't do five days and then have Saturday off because their machinery is sitting idle for a day, why can they do three days off and let their stuff sit idle for three days? I'm not clear on that. The other thing is, you know, if you're giving construction companies – you're basically saying OK, we're going to restrict you now to Monday through Friday during these particular hours but you can just get a variance now, and then you can do it on Saturdays like you always did, then really if I was a pile driver manager, employee, or was related to those companies, I would recognize that as the City to take more of my money. That's how I would perceive that, if the City is taking something from me and making me pay to get something I already had. And as a citizen, I wish I had that opportunity. I wish I had the opportunity when something gets taken from me to be able to pay a couple hundred bucks. I've been trying to figure out where to send the money really, honestly, to be able to get my hours back when those hours are taken away. As a citizen, we don't have that opportunity. So when construction companies and developers build dense areas and build in dense areas, what do they think is going to happen? There are people living there and it's the people that make the neighborhood. The appeals of variances section here where you're moving appeals to the Hearing Officer, if you do that I'd like to suggest that you strike City Council from section 18.02.020 policy statement and replace it with Noise Control

Officer and Noise Review Board. This would remove any City Council references all together since they will no longer be taking part in noise control, and it will help outline the role that the Noise Board and the Noise Control Officer play. The policy statement is null without this change. Section 1B. This paragraph negates the responsibility of the Noise Review Board and gives them total control over all aspects of noise control. In essence based on that section there, the Noise Review Board could allow pile driving to occur seven days a week in a given instance without redress. That particular paragraph, section 1B negates the entirety of Title 18. I support the move of placing EX zoning in to the commercials level; however, doing so will only make a difference if the zoning isn't designated per lot. This change does not really make a difference for residents that reside within an EX zone. For instance, in the North Pearl District, the zoning is EXD all but for the Parks, which are bound as open space, and a noise producing construction site in this city EX zone can still affect a residential receiver within that zone at 70 dBA. Even with this proposed change.

**SWEET:** no, that's not right.

**VANADIA:** that's not right?

**SWEET:** That's not right.

**VANADIA:** In the chart that shows a 70 and 70.

**SWEET:** 65. Commercial to commercial. 65.

**VANADIA:** The way I read it is 70 and 70, so I don't see how that would make a difference.

**SWEET:** Currently 75.

**VANADIA:** 75. Well we'll have to revisit that. I don't see a change. As far as this added language in Section 3, action upon receipt of an application, identification of a noise impact zone, etc. I feel that I agree with the other gentleman who was questioning this section. It's kind of moot at this point. The Noise Control Officer and the Board already may identify unique situations where citizens in particular regions are facing significant impact. However, it has been our experience that over the past two years, the Noise Officer and the Noise Board have not been able to recognize an area faced with significant impact as described in this proposed section. So rather than add superfluous language to Title 18, I urge you to clearly define what would make a noise impact zone and exactly what measures should be taken when one occurs. This has been done for decibel levels and for noise-producing machinery both large and small including leaf blowers and pile drivers, so it's reasonable to outline the parameters for protecting citizens. Doing so takes the burden off the individuals who carry out enforcement and clearly written rules help to ensure that companies and citizens get treated fairly. Notice of receipt. There's a section in there that talks about the need to publish noise variance applications in a newspaper of general circulation. And if you're going to go in and make changes, I would strongly recommend that this area gets updated because we're obviously not using newspapers of general circulation anymore, and there needs to be a better form of notification. This is something that gets brought up over, and over, and over again. And I have three more sections that I'm going to discuss. Section 6, appeal a variance decision to the board. I would say strike the City Council and replace it with Hearings Officer. That's just in this additional section of Title 18 that's not in the public version of Title 18. This is the – and you had amended another section that was in yellow, and that whole little section was new to me.

**SWEET:** You understand that those are board policies and procedures. It's not part of Title 18.

**VANADIA:** So why is that included in the whole proposal?

**SWEET:** Just to be complete as something else we're considering.

**VANADIA:** All right. Then I'm just going to be complete about my response.

**STANDLEE:** This is referring to City Council and this is for the Board to adopt as a policy.

**SWEET:** Yes.

**VANADIA:** So in section B of that section, changes to variance decisions, this section allows the Noise Office and the Noise Board to change their mind without redress procedure for citizens, and we as citizens have experienced the Noise Board exhibiting favoritism for construction companies by extending deadlines, changing dates, modifying notification policies, and not requiring companies to follow the stipulations on a granted variances. This section negates citizen involvement and promotes corruption.

**VAN ORDEN:** Which section are you talking about, David?

**VANADIA:** Section B. Changes to variance decisions. It's toward the end of the...

**SWEET:** In the board's policies and procedures.

**VAN ORDEN:** Oh, in the policy section, okay.

**SWEET:** Yeah.

**VANADIA:** And section 9, waiver of rules. This is yet another section that enables the Noise Board to reign over all aspects of noise control. In general, these multiple flexibilities make the rules nebulous at best with citizens taking the brunt of the repercussions of secret corporate government partnerships, and as a citizen, I do feel that I've witnessed and watched the Noise Office and the government work hand in hand with construction companies, and obviously they have to do that. But as a citizen, we have experienced that we are left out of the negotiation situation or the negotiation table. We're not putting money in. Our time does not seem to be as worth as much money as the construction companies' time, and so...

**STANDLEE:** David, can I interrupt you just a minute and explain to you why this part is used. We had a case one time where the city, not a contractor, came to us and said we had a rupture. We've got water, we've got to do something. We have to get in there. We need to get this equipment in there and go. We all agreed. That's an emergency. We can't wait for a hearing. We can't do that. That's what this allows.

**VANADIA:** I didn't see language about emergency stuff in there. It's kind of vague, so that was my suggestion. I understand what you're saying.

**STANDLEE:** In case of emergency or important policy considerations.

**VANADIA:** I understand what you're saying.

**SWEET:** Okay.

**STANDLEE:** This is how that's used. It's not intended to be used for if a contractor comes and says I'd like to do this. That's not intended for that.

**VANADIA:** Okay, but we've seen it be used that way is my take. It was my impression, okay. Is that I've seen it be used that way. So once again just to go back, the give and take, I'd like to see more of a give and take, and from a citizen's perspective, we have been giving, giving, giving and having things taken from us, and basically our time is taken from us, and it's not given back. And I'm open to trying new things. I am open to trying the four day, 10 hours with three days off. I'm open. We heard from Hoyt Street Properties- they seem excited about that. Maybe there's something we can try immediately. Maybe since you have the ability to make decisions like this where you have the flexibility with the board's decision to, hey, we can try this. Why don't we try some stuff? That's my take.

**SWEET:** Just to be clear, David.

**VANADIA:** Yes.

**SWEET:** I don't think anyone was proposing that any construction activities be limited to four 10s because right now what's allowed is six 11s.

**STANDLEE:** We're just talking about pile driving.

**SWEET:** So I think what we were talking about there, what was being proposed there is that it allows individual workers to work four 10s, not that those would be the permitted construction hours, but I understand how you would prefer to have four 10s than six 11s, which is what we have now.

**VANADIA:** What was the thing that you asked Doug and Tiffany and they were both like, yes, we would absolutely trade five days for...

**SWEET:** If we gave them an addition two hours a day until say 8 p.m. – 7 a.m. to 8 p.m. to do pile driving for five days. Would that be a reasonable trade off for Saturdays? That was not my question, but that was asked.

**VANADIA:** From my perspective, at this point, I would be willing to try that even though it's still taking more hours from citizens, but the benefit of it is that citizens can have a more reasonable expectation that five days a week it's just livability is shot, but we know that we have this livable weekend. We know we have from Friday night until Monday morning where we can all relax and know there is not going to be a huge impact in the community.

**SWEET:** Okay, thank you, David.

**VANADIA:** Thank you.

**VAN ORDEN:** I have a number of questions. One of the concerns I want to just double check is Mary Helen Kincaid had raised a bunch of issues she had forwarded to several neighbors including yourself, and last Council appeal we had, she had raised the concern that issuing citations is unethical or is a concern that the Noise Office really isn't doing its job by issuing citations, and she went on to say in her recent letter that the zone change is not a reasonable zone change, and it sounds like you said you think the zone change is a good issue. So I just wanted to make sure I understood a few things from a citizen's perspective. You're comfortable with us in our recent move to ONI that we're issuing more citations, that's that a good thing. Is that correct? Because I was really surprised when Mary Helen said she wasn't supporting of that.

**VANADIA:** I don't know enough about how many citations you're actually issuing, and I would think that if more citations were being issued that could be an indicator that there's more enforcement going on. I don't – I guess even like with changing the zoning, my first thought was how is the Noise Office going to handle that many more complaints? Because you're going to have that many more complaints coming from people who are now legally – have a legal complaint. An actual...

**VAN ORDEN:** We actually won't get more complaints. What we'll have is a better capacity to resolve it because there would be a lower decibel. I don't see that it's going to create more complaints. A couple other quick questions. The comments that Mary Helen shared. One of them was...

**SWEET:** Excuse me, Paul? Mary Helen is not here.

**VAN ORDEN:** I know, but I'm trying to ask him because he...

**SWEET:** Yeah, but Mary Helen's not here.

**VAN ORDEN:** Okay.

**SWEET:** I don't think we should be quizzing David about her testimony.

**VAN ORDEN:** Okay.

**SWEET:** Thank you. Thanks, David.

**UNKNOWN MALE:** You did say 3 minutes each not 30 minutes each for people?

**SWEET:** I said I was not going to limit us to 3 minutes each unless I had to and that I asked people to be concise and not repeat themselves.

**BURT:** I have a quick point of clarification for my purpose. Did I hear somebody say earlier that these are only proposals for the Pearl District?

**SWEET:** No.

**BURT:** I didn't perceive it that way, but I thought I heard somebody say these were only going to be for...

**SWEET:** No.

**BURT:** You said something...

**SWEET:** No. Citywide...

**BURT:** Citywide.

**SWEET:** ...is what's being proposed. Who's next? Anybody else who wishes to testify tonight? Rory, I knew I could count on you.

**MARTINDALE:** Rory Martindale from DeWitt Construction. A couple of notes that I saw being discussed was who wins? Longer versus shorter durations. More impacts. And the statement that it is, is the motto of the city is "The City that Works," and so let us work, to be more efficient to complete those projects in those shorter durations. It's less impact on the citizens and less impact to try and get as much – we don't want to work the Saturdays, but if you take those away, then our options are limited and the duration of those projects are extended out as we have heard from many people. Let us work, but not by limiting the owners and the contractors schedules based upon overcoming challenges and adjusting to prohibiting limits or not to work on uncertain contract timelines that can be shut down if there are other noise activities that are in the area or construction activities within a neighborhood. From a safety standpoint, but extending workdays with the recommendations limiting the hours of pile driving, our work, it increases our worker's exposure for the duration. So our workers have to rig up, have to set up, have to be on and in around the cranes and the pile driving for those extended periods, and it adds risk to projects. I get that noise is frustrating for extended periods of time. I get the citizens of the Pearl have longed for a break in the extended noise activities in the Pearl District. Let us work to continue to improve our efficiencies to reduce the duration of the projects associated with the noise activities. Let us work – the earlier we complete our work, the less impact we have on the noise we hear, and it is about if you take those Saturdays, if you take hours away just rigging up or just doing something so that we're ready to go at 7 a.m. so that we can get that project done that week earlier that they don't have to have that impact noise from an extended duration project is going to have an impact on their lives, as they have seen. So let us work to increase that efficiency.

**GOSSETT:** I have a question. Given the construction time for a building from start to finish, how many weeks is that about?

**MARTINDALE:** Depending on the projects. I don't have a relative – I can't tell you...

**GOSSETT:** I guess what I'm getting at is what percentage of the pile driving is...

**MARTINDALE:** Well you heard testimony based that this is three to four weeks versus two years to complete the project. So it's a very short, limited duration.

**GOSSETT:** Okay.

**MARTINDALE:** And the thing about pile driving is we're the first ones there. We're the ones putting the foundation in the ground. There is no other work that is going to continue until after that foundation is there. And I'd like to clarify a couple things that was said. You know, the auger cast. Somebody said, well, the projects did auger cast on Block 15 and the other one, and the engineer, Scott, testified that he wouldn't do that again for the reasons...

**SWEET:** And we heard that, so we don't need it reiterated.

**MARTINDALE:** Okay.

**SWEET:** He said that twice. Two different hearings.

**MARTINDALE:** Okay.

**SWEET:** Yeah, we got it. Okay, any other questions for Rory?

**STANDLEE:** I'd like to ask a question just because I happen to think of this today and it's on my mind.

If you're – and it's not even being proposed.

**MARTINDALE:** It's abstract, yeah.

**STANDLEE:** if you were told that – well let me put some background into this. I'm aware of the fact that not every pile driving job is going to be right next to another house. Or next to our residents. So maybe we don't want to look at regulating all pile driving the same. So I was thinking, well, what if we looked at the actual level of that pile driving and said when you reach this level at a noise sensitive of receiver, if you're going to – if that's going to be the level you're going to generate, these are the limits are going to have. If you're in this range, these are the limits are going to have. Would you be able to live with something like that knowing that...

**MARTINDALE:** There would be too many variables that come into play. Where it is in the proximity of the building. Where in the proximity of the job. If you limit certain aspects of it, you won't be able to meet those parameters in some, and you'd be able to meet in the others.

**STANDLEE:** Well I'm just saying if for instance you were told you can only operate five days a week if your level reached this point, you can operate the six days you want, but if your level is than...

**MARTINDALE:** Still you're talking about too many variable parameters to classify and put it into a classification to say we're going to limit you on this noise level or we're going to limit you of it, because each day is different. You have different pressures and sound as you know. And different characteristics that carry those sounds or reflection of buildings or whatever the case may be.

**STANDLEE:** Well I think when you're next door it has no effect. The sound is going to be the same every day.

**MARTINDALE:** Right.

**STANDLEE:** That's all I wanted to ask.

**SWEET:** Okay. Any other questions for Rory? Okay. Thanks, Rory. Yes, sir.

**RICE:** I actually wasn't going to speak, and this is going to be real quick, something that hasn't surfaced when we were talking about this long...

**SWEET:** And your name?

**RICE:** Reeder Rice. And a retired union pile driver. And I live in the Northwest neighborhood, too, as well. We're talking about long hours and 12 hours and all that stuff, and I understand the necessity of Saturdays as a makeup day, but I've been one of the guys that's had the bags on for those long hours, and I don't particularly like working Saturdays. I'd rather not. I think most of these people wouldn't, but the thing that hasn't been brought up is, in my opinion, and all the guys I've worked with, production starts to go down after you get past a certain amount of hours. When you get up into 12-hour days like Mr. Shapiro was saying, that would be great, you know, if we could work nine or 10 or whenever. But that's a gruesome day in most applications. And in the 1800s, there was a carpenter who brought about the creation of the 8-hour day after 14-hour days were the norm. So we're trying to achieve a workday without including the weekend all the time, and so let's just keep that in mind, too, with all this talk about acceleration. I'm going to be the devil's advocate here and hope I don't piss too many people off, but that's the way I feel about, you know, let's just not see it go back to where it was.

**STANDLEE:** What about two shifts though?

**RICE:** That's different, and that's certainly doable, and I worked plenty of jobs where there were three shifts.

**STANDLEE:** We're not trying to wear the one guy out.

**RICE:** Yeah. Well it's the norm nowadays to – not everybody's going back to work. They're skeleton crews that are working longer hours. That's just the way it is.

**SWEET:** Anybody else who wanted to offer testimony to us tonight? Hearing none, we're going to close the hearing portion of tonight's meeting. Thank you all. I appreciate you coming down and giving us your thoughts on our proposals. We will have to consider them. The board is going to take a 10-minute break and come back and talk some. Okay, we are recording.

**STANDLEE:** Back on.

**SWEET:** We're back on. Where we at? How does everybody feel about our proposals in light of what you've heard tonight? Anything you want to change. Anything you want to do differently. Any new ideas that you'd like to put forward.

**GOSSETT:** I have a question, so I'm clear. Are we talking about just Northwest?

**VAN ORDEN:** No, absolutely not. Citywide.

**STEWART:** So we're talking about the entire city. SO this has now grown to the entire city. Because originally we were talking about northwest, right? Just so I know because I missed last month.

**SWEET:** Yeah. I mean we've been considering pile driving, and we understand that it's a particular issue there. It also doesn't occur everywhere.

**GOSSETT:** Right.

**SWEET:** But it does occur in the Pearl. It occurs close to the river, south Waterfront.

**GOSSETT:** It will occur wherever we have large sites in an urban fabric that are going to be developed as dense projects.

**STANDLEE:** Well it will occur anywhere along the river.

**GOSSETT:** Yeah, which is – I work at OMSI, so...

**STANDLEE:** Right, but I mean it will even further around or St. Johns.

**GREB:** Well consider this it will affect building of giant walls and stuff too, right?

**SWEET:** Yes.

**GREB:** It isn't just for buildings.

**GOSSETT:** And this density we talk about and that we create is consistent with the urban growth boundaries, Senate Bill 100. So none of this should be a surprise that we're wanting denser, larger, higher buildings, right? Consistent with the urban growth boundaries.

**VAN ORDEN:** So a few thoughts. We have a few different – I wouldn't say they're necessarily new elements, but a few things on the table that might be good to talk about so the Board can decide if we want to incorporate them, change them, not do anything. So it might be good to just first throw out some of the new things or different things you heard today so we can kind of really clear for the record demonstrate that we had a conversation around some of the new things we heard. I can think of a few different things that – let me throw my notepad open so I don't lose sight. We definitely heard a lot more testimony tonight about fiscally the industry thinks this is going to have a giant impact on them. I don't know if we agree with that, but I think that was more testimony on that element than we've heard in the past, and I think in fairness we could chat to that as an element. I heard kind of a repeat concern that's come up at a number of hearings, concern that we need to have more health analysis. I respectfully disagree, that we're here at the table, that's why we're exploring it, but that would be a good one to resolve so there's some communications about that because it'll come up I'm sure at Council as testimony from the public of the health impact element?

**STEWART:** This is the data element. Gathering data.

**GREB:** No, health.

**STEWART:** I know, but data on health is the point isn't it?

**VAN ORDEN:** Data on health or specifically having a – I think what I've heard, and you guys can tell me if this is no what you've heard, but I think folks have raised, in particular tonight, Patrice raised the question of...

**SWEET:** Yeah.

**VAN ORDEN:** ...could you have had a whole panel just on the health impacts of pile driving, and for a variety of reasons having Kerrie's expertise of I don't even know how many years I would speak to that level of expertise, mine for 25 years in the industry, David worked starting back in the early '70s, and just the citizen perspective that we do have more citizens than we would technically have in industry type rep or construction type rep that I think we're pretty well rounded on the health...

**SWEET:** Patrice has raised that each time she's testified to us on this issue, and I haven't – at least not usually – pointed out to her that it is something that we're aware of and that we've received instruction on as a board, and it's why we're here and that we probably don't need separate testimony about the health impacts of noise since it is something that we know about and we didn't seek testimony on that in relation to pile driving or construction noise specifically.

**VAN ORDEN:** Would you say on that note, David, and other board members, that it would be fair to say – because I thought it was also intriguing tonight that it was probably one of the first hearings I can think of where the industry started saying they don't see that there are health impacts, and I thought that was – I think Joel was trying to get at you don't have readings, and I think we know this is an impact to the community. We're not going down that road.

**STEWART:** Shapiro.

**SWEET:** Garth said that we can't do this because we don't have the data. Well we have the data. We all know what pile driving sounds like. We've all heard it. We've all experienced it. We understand why it's more disturbing than most other types of construction noise.

**GOSSETT:** We also heard that there's a health issue as far as workers tonight for the first time. And again, I was sick last time.

**GREB:** It's not for us to discuss.

**SWEET:** Yeah, Joel kind of disingenuously last month said, well, health impacts or exposure to more than 90 dBA for 8 hours, which he knows better, and he served on the Noise Review Board. I was unimpressed with that, and he tried to walk it back a little bit in his testimony tonight.

**STEWART:** Okay, so fiscal impact and the health analysis we don't have.

**VAN ORDEN:** We also have David Vanadia's suggestion on not incorporating the noise impact zone in our policies and procedures but incorporating it into more specific code language. The industry said they'd like to see it more specific so we could discuss why we would put it in policies and procedures as opposed to taking a stab at putting it into city code.

**STANDLEE:** I was the one that suggested policy because being involved in other organizations, getting policies put into code takes a lot longer time, so I thought it was a faster mechanism just to put it in the policies and it could happen.

**GOSSETT:** Is it a code issue, really?

**SWEET:** Well it is if we make it a code issue. We could write a code that defined a noise impact area and then we would have to define it clearly.

**STANDLEE:** A lot more detail.

**SWEET:** And I think, yeah, I think that in itself is daunting, and I'm also not clear that there's another area of the city outside of the Pearl right now. Certainly there are concentrations of construction activity, but for whatever reason right now we're not hearing many reports of problems from South Waterfront. I don't know that is. And they certainly have driven piles for all of those tall buildings down there and are continuing to do. Maybe we're just hitting critical mass. Maybe when they develop these Zidell properties then we'll hear more about it, I don't know. I'm loathe to propose a solution without a problem.

**GOSSETT:** I agree.

**SWEET:** So then, okay. Then we're left with we clearly have a problem in the Pearl District, and this allows us to take cognizance of that without enshrining the Pearl District forever in code. And I don't know. But the impact of what we're doing is limited. If it's Board Policy, then it impacts what we do with variances, but it doesn't impact the rules for construction activity day to day outside of variances.

**STEWART:** So it's pointless to do it that way.

**SWEET:** I don't know if it's pointless. I think there has already been some useful results from my imposing the requirement that all noise variances in the Pearl come to the Board instead of being decided by the Noise Control Office. I think that has allowed us to hear from folks who are impacted by the noise that has allowed us to work with applicants to develop conditions for the variances that help to mitigate the impact, and not insignificantly it puts the onus on the citizen's board rather than on a single city employee, and where high profile high controversial decisions are being made, I'd rather have it done that way.

**GOSSETT:** Do these kinds of impositions ever begin to affect land value? And that is to say if it becomes so onerous to build in Northwest Portland that investment goes elsewhere and then Northwest Portland's land value begins to drop.

**GREB:** I think we should take a global look at this. What we're talking about is adding five days on the duration of a two-year project. I'm very sensitive to the need to have Saturdays to make up, but we need to talk about the give and take.

**GOSSETT:** That's kind of what my next question – well I asked a question about what percentage are we talking about here.

**GREB:** Yeah, so I think you're talking about 1 out of 100. Insignificant. In my opinion. And I think that definitely this policy has to happen for contracts that have not already been let, so you're not changing rules. Because that will affect stuff.

**GOSSETT:** And is there any enforcement issues...

**GREB:** Contracting as a bidder, you'll just figure out – everyone's going to have the same equal playing field.

**SWEET:** So you might have noticed...

**SWEET:** That's what you said last week.

**GREB:** That's what I said last time, and I continue to stand by that actually it makes it even more fair because I'm not putting in 20% overtime a number – that would be the number I would use.

**GOSSETT:** So that takes away the enforcement issue too, right? Because it's built in.

**SWEET:** Let me come back to the enforcement, but I want to follow on the idea that you build it in, and that is something that I heard during the break from Joe Weston that I hadn't heard from anyone else.

**GREB:** Which is?

**SWEET:** He said, you know, he has development rights to some properties in the Pearl - I don't know how much – that he has acquired, and he acquired those with the expectation that the rules were this, and now we're changing the rules, and that affects the value of his investment, so that was something he was suggesting. I don't think it affects it much.

**GREB:** Agreed.

**SWEET:** I think it's pretty minor, but you were saying everybody will know the rules going in and can bid accordingly. I just...

**GREB:** It lowers the price to be perfectly honest. Maybe overall duration, but I think it's negligible.

**STANDLEE:** The reason I brought up the questioning I did tonight about tradeoff of longer hours during the week versus Saturday...

**SWEET:** Yeah.

**GREB:** I think that pile buck is right. I don't think you force people to work 12 hours. Or don't open that up to...

**VAN ORDEN:** I'm not a fan of it at all.

**STANDLEE:** You're not a fan of it. Well every time I read things from the developers, they were saying reducing our hours. Reducing our hours. It's going to cost us more. What if we said, no, we're not reducing your hours...

**SWEET:** We're shifting them.

**STANDLEE:** ...we're putting them in this category rather than in that category. You can use those hours here. Then they can't say you're reducing our hours.

**GREB:** But it's shitty for the people in the Pearl District to lose their dinners every night.

**STANDLEE:** Wait a minute. But we just heard – David said that he would be...

**VAN ORDEN:** He said tenuously.

**SWEET:** I don't know if David is necessarily representative. I mean we've heard...

**STANDLEE:** No, it isn't, but I think that that is a possible idea that that could be put forth to the Council to say there is this possibility that you could have this as an ameliorating thing to offer.

**SWEET:** Yeah.

**STANDLEE:** I mean Washington County, the construction limit out there is 7 a.m. to 10 p.m.

**SWEET:** That's why I don't live in Washington County.

**STANDLEE:** I'm just saying that there are places around here – you go across the city limit into Washington County, they put piles in until 10 p.m.

**STEWART:** They don't claim to be the most livable city either.

**STANDLEE:** Some of Portland is in Washington County.

**SWEET:** So the portion of Portland that's in Washington County has to abide by our rules, Title 18.

**STANDLEE:** But those people living next to Washington County are impacted.

**STEWART:** So which side of this argument are you on, Kerrie?

**VAN ORDEN:** He's exploring.

**SWEET:** He's exploring options.

**STANDLEE:** Here's where I am. Because of the fact that I came into this so new to the subject, I feel like I have no ability to decide anything because I haven't had all the history that you guys have had for the last year of looking at this.

**STEWART:** Good point.

**STANDLEE:** And my feeling is this is going too fast. That's my feeling.

**STEWART:** You've missed out on a year's worth of...

**STANDLEE:** Because I missed out on all of that, and I haven't had an opportunity to think about these things. Like I brought up the last question there to the person. If you were told if your levels are going to be between this level and this level, we're going to limit you to this number of days. If it's going to be between this level and this level, you can get this number of days. It will be a trade off thing of an exposure. How do you control exposure? And I tell you what. They'd start looking for ways to mitigate really fast if they knew they could get more days if they did it.

**SWEET:** If they really want more days.

**STANDLEE:** Yeah.

**SWEET:** I'm not convinced they want the more days. I think they just don't want to change.

**GREB:** The drilling contractors are going to get paid the same amount. I mean whether they do it in five weeks or four...

**SWEET:** Okay, but...

**GREB:** They're going to bid the same...

**SWEET:** They're going to bid it at five instead of four.

**GOSSETT:** How many sites are left in Northwest Portland?

**GREB:** Irrelevant.

**SWEET:** A lot.

**VAN ORDEN:** Because we're looking at this universally. Because there will be the next Pearl.

**STEWART:** Yeah, which is going to be Buckman I have a feeling.

**VAN ORDEN:** Well according to City Council they want Lloyd and Williams/ Vancouver. The two they want to focus on for high density.

**SWEET:** Lloyd is a happening thing, and actually it's going to be interesting to see if we get complaints about the next phase at Lloyd, because they will have 630 new apartments occupied when they start work on the next 1000 right next door.

**STEWART:** The only valid point I heard was that if you delay the foundation work, then everything beyond it is delayed, as well.

**GREB:** You're adding one total week...

**STANDLEE:** But you're not delaying it. They just don't start.

**GREB:** That's right. And there are a multitude of reasons why you don't start on the date you say you're going to start anyway.

**STANDLEE:** I mean I've got project work where they tell me, well we can start from here to here, and I go, you're delaying my work. Okay, I'll start between here and here.

**STEWART:** So that was bogus, too.

**SWEET:** It's not bogus. It's true.

**GREB:** It's not bogus but it's not – I don't think it's as weighty as they're making it out to be.

**SWEET:** Yeah, I think the least persuasive testimony I heard tonight, frankly, was from the union reps.

**GREB:** Yeah, it's irrelevant.

**SWEET:** I think it's all the same. I think it's the same number of jobs at the same pay.

**GREB:** It is.

**STANDLEE:** It doesn't affect – well not the same pay. If they don't get...

**GREB:** They don't get Saturdays.

**STANDLEE:** They're not getting that...

**STEWART:** Yeah, that one guy was talking about his Christmas presents.

**SWEET:** They don't get as much overtime. That's true.

**GREB:** I'm married to a construction worker and you do look forward to summers because you can make money, but all I'm saying is small peanuts compared to the rest of their entire earnings for the year.

**SWEET:** We currently give them an 11-hour day, right?

**GREB:** That's right. And they can take all those 11 hours.

**STANDLEE:** But they can only get 10.

**GREB:** Well maybe we revise that part.

**SWEET:** I'm not sure what the Carpenter's Union is losing when we limit the hours of pile driving.

**GREB:** They're just all supporting laborers.

**COUCH:** They're part of the carpenters.

**COUCH:** Pile bucks are part of the Carpenters Union.

**VAN ORDEN:** Pile bucks are in the Carpenters Union.

**SWEET:** Okay, thank you. There is it is.

**GREB:** I'm very much in support of not during dinner and not on Saturdays.

**GOSSETT:** What times are you saying again? You're going to start at 7?

**GREB:** We tried to make it be more restrictive and be like 8 to 5.

**SWEET:** 8 to 5 is what...

**GREB:** Well maybe we don't do 8 to 5. We keep it...

**STEWART:** 7-4.

**SWEET:** Keep it 7 to 6, but no Saturdays?

**GREB:** We keep it the way it is on the weekdays.

**GOSSETT:** Okay, 7 to 6.

**GREB:** But no Saturdays. And it allows you to have production.

**SWEET:** How about 8 to 6?

**GREB:** That's fine with me too.

**GOSSETT:** They have to get to set up though.

**STANDLEE:** I think the interesting thing, the argument I made at our last meeting...

**SWEET:** It's set up.

**GOSSETT:** They have to get set up.

**STANDLEE:** They can do that. You just say the impact can't occur. It has to occur between 8 and 6.

**SWEET:** Yeah, I want to be clear that they can do set up.

**GOSSETT:** So 7 to 5.

**SWEET:** The language that I wrote – I was just looking at it – was permissible sound shall apply to pile drivers from 5 p.m. to 8 a.m. the following morning. Pile driving.

**GOSSETT:** Pile driving. Yeah, not drivers.

**SWEET:** Change drivers to driving and I think we've got it.

**GREB:** I agree.

**SWEET:** Then we're not affecting their setup time.

**VAN ORDEN:** The interesting thing that I would offer is I'm here, I have to weigh the community's needs and the industry's needs. I don't see them starting at 7. Rarely have I seen them start at 7. I disagree that they're trying...

**STANDLEE:** That they're waiting for that 7 o'clock hour.

**VAN ORDEN:** That's not what I see. Maybe there's projects where they do that because they really are behind, but what I traditionally see is that they get there, workers are milling about, like in the remote project they're getting in and out of the car. They're doing things that normally neighbors are not happy about, and then once 7 comes they start moving things around and they get started at 7:30 or quarter to 8. And that's what we saw traditionally at all the pile driver projects. Like the loudest and worst one was when they were sheet piling first over next to the Justice Center and near the Federal Courthouse. There was a project there that has the post office and the base on 1<sup>st</sup> Avenue right at the Hawthorne Bridge.

**SWEET:** Um-hm.

**VAN ORDEN:** That project was so bloody loud it was unbelievable, and there's – and we knew because you had the call...

**SWEET:** One Main?

**VAN ORDEN:** Yeah, that might be what it's called. So I think they'd be really hard pressed to really demonstrate to us that they're starting very often – if they're behind and they have

performance penalties, I could see that they are pushing it and trying to start right at 7, but I don't see that.

**GOSSETT:** Well I really like the feel of this because it takes away all of this monitoring and extra layers of stuff.

**GREB:** I mean it is what it is. I mean we're setting times and we don't need to do any extra permitting or following up or trying to figure out how you're going to have compliance and all that, so this seems to me to be the most practical and cost effective and best...

**STANDLEE:** I'd like to see if there's any way that the city could motivate the pile driving industry to start trying to reduce their noise. I think there are ways, and they just haven't had to do it.

**GREB:** We talked about it pretty extensively last time, didn't we?

And I know, and the thing that concerns me is the fact that not every job is exactly the same in terms of impact. As you get closer and closer – as the density gets up, you start having more impact, and there seems that there should be some mechanism that takes that into account.

**GOSSETT:** Isn't it a question of liability at some point because if you're not doing what your engineer says as far as the process...

**STANDLEE:** I'm not talking about changing the process.

**GREB:** You're saying like putting a shroud around the impact...

**SWEET:** Find a way to mitigate the noise.

**GOSSETT:** Oh, some mechanical way. Okay.

**STANDLEE:** Some mitigation for noise mitigation or duration of mitigation. It's a time exposure kind of a thing. The trade off is just like in OSHA, if you're exposed to higher noise levels, you have less time you can be exposed at it. So I think that same...

**VAN ORDEN:** Mentality.

**STANDLEE:** ...mentality should be used in addressing...

**SWEET:** But then Carol was just saying she likes this because it's a straightforward enforcement, and Rory likes it because it's straightforward. He doesn't like your idea.

**STANDLEE:** I know that.

**GREB:** I agree with him.

**STANDLEE:** I still think that somehow we should have every pile driving job...

**SWEET:** Incentive.

**STANDLEE:** ...come to someone for review and that they present the data to say here's what we expect the levels to be at this location and you say, okay, here's your limit.

**VAN ORDEN:** I agree with you. The concern...

**GOSSETT:** But can you do that time-wise?

**VAN ORDEN:** Well the concern for me – that's not going to be me because I'm not a geotechnical engineer.

**STANDLEE:** No, no. It's not the geotechnical engineer. You don't even have to have a geotech. You just say, what are the levels going to be? I don't care if you're doing auguring or if you're doing pile driving, hammering, what are the levels going to be? If your levels are this dB, you're going to be restricted to this number of days. Or number of hours per day.

**VAN ORDEN:** I think that's fine. I think that sets us back two months.

**STANDLEE:** I know it does, and that's why I said I feel bad about this.

**VAN ORDEN:** No, I don't think you should feel bad. I would propose that on many of the things we've moved forward to City Council, we've brought them in layers in so far as we've said these are the things we know we can achieve right now. Garbage trucks. We said we need to study more to come up with fork improvements, so on and so forth. I mean I think PIR is a great example. We issued all these noise variances, and as we got closer to being able to get them to put the permanent monitor in, we said you don't get to do what you want anymore. You have to meet the standards because...

**SWEET:** Do we have a monitor in place now?

**VAN ORDEN:** It was as of the last conversation I had, they were testing it so it should be pretty darn close.

**SWEET:** So it's in.

**STANDLEE:** It's up.

**SWEET:** It's up. It's plugged in. It's being tested.

**VAN ORDEN:** That's what I understand. So the question becomes what I am most intrigued by is understanding that citizens deserve change. We're trying to manifest change and improvements for the community. Obviously what we saw was that the people thought that at one Noise Board hearing we could change it at one Council meeting, and I think we can make some very positive changes and still continue in that direction. And so I would almost suggest that I agree with you, Kerrie, but I would like to get something on the books that we can do now for people.

**STANDLEE:** I understand. And that's why I said I feel like I'm not with the group because of the fact that I haven't been a part of that.

**SWEET:** And we could – if the industry tells us they like it and Council adopts these rules, we could come back and say, okay, DeWitt now says they can drive piles at 95 dBA at 50 feet, and so we're going to propose that if they can do that they can go back to the old hours.

**GREB:** No way.

**SWEET:** No?

**GREB:** I think Saturdays are off the mark.

**SWEET:** All right.

**GREB:** 95 dB pile driving versus 109 is still annoying as shit.

I'm not even speaking just for construction at all. I'm just saying, I think Saturdays are off, and if we're Saturdays are off, they're totally off and they're off for everybody.

**VAN ORDEN:** And I think that's reasonable.

**GREB:** I mean coming to us for a variance to get Saturdays is – feel free to file it, but I'm never voting for that.

**GOSSETT:** And it doesn't put anymore burden on our staff, right?

**VAN ORDEN:** Well here's a few thoughts. One, I would say as a citizen – for a moment putting that hat on – I will now be into year four of constant construction by my house, and I totally respect although they're not having to really drive many piles where I'm at, it's just the incessant element of construction, so I think it's reasonable to see if the city can accomplish something where we take a break on Saturdays with some element, and pile driving seems like a reasonable one. The reason why the hours concept that we put on the table is something that's achievable is I would argue that this is one of those elements in the Noise Code where unequivocally a citizen can fill out a complaint log and say I experience pile driving at 7 a.m.

when they're not supposed to be. I don't need to be there to take a noise reading. We all know what pile driving is, and if we ban pile driving before 8 in the morning, tough luck if you find a way to do it quiet. You can't pile drive. So if you decide to pile drive, then somebody could fill out a log, like we've been doing with a lot of cases – there are like five to six cases on my desk for tomorrow or Friday to hopefully get out the door for construction industry folks. If a citizen can document that, we're going to...

**GOSSETT:** How do you verify that the citizen is not making that up?

**VAN ORDEN:** And that's part of – and I'll explain that in a minute, but I don't think we're going to get more staff in the noise office in the next several years. I just don't think it's going to happen looking at the City.

**SWEET:** No, I agree.

**VAN ORDEN:** And so that's okay as long as we look at what are ways to better serve the public, and I think community policing where we empower citizens to document things that are reasonable, we've done that, we haven't lost a code hearing yet. The issue is someone has to be willing to sign their name, and they have to be willing to go to a hearing. Because if the pile driving wants to show up at hearing and say here are 10 of our workers who were on site that day, we did not work and someone lies...

**GOSSETT:** Do they log in when they start work?

**GREB:** Yeah.

**VAN ORDEN:** They log a lot of different things constantly. But the point being.

**GREB:** Oh, when they start pile driving? I don't know. Internal policing, so I don't know what to say about that.

**VAN ORDEN:** I think the enforcement side is workable because there's no way you're going to have Julliete and I out there all the times that someone calls.

**GOSSETT:** Well you can't do it, and we're not going to get more people, so we have to be reasonable about this for your sake also.

**VAN ORDEN:** And realistic. I don't want it to be like the leaf blower stuff. We get calls constantly on leaf blowers. Why aren't you enforcing it? They're there for 15 minutes. We can't get out. And we said that to Council. When we passed that regulation, we said we're passing this as an educational effort because when we send the warning letter, the greater majority of people switched to the quieter leaf blower, but somebody's going to be jerky and keep using the wrong leaf blower, and catching them is going to be really hard. So to back up there for a minute though, I don't think we're at the point where we have a tool where we're going to magically have the Police Bureau saying, "oh yeah, we understand the construction code to a depth enough to document people working between 7 and 8", when we're not really successful right now with 7:00 to 6:00 p.m. So we're not there yet. I'm hoping we're headed in a positive direction. So I do want to say that so when we're presenting it to Council we're clear that we still want to see improvements with the interaction with the Police Bureau, but this is not the area for it. This is one where we would be relying mostly on citizens to report and the industry to understand. You're going to get a ticket. You want to challenge it? You can. We will happily go to a code hearing and go through that process.

**STANDLEE:** Okay, I'm going to be the devil's advocate again. My concern is if we were just addressing the Pearl, I wouldn't have a concern, but we are putting in something that is going

to affect the whole city. And I suspect that there might be some voices where pile driving on Saturday won't be a problem.

**VAN ORDEN:** Port of Portland. They've done it. Out at the Port of Portland.

**GREB:** So is that something where somebody comes in for a variance?

**VAN ORDEN:** Well that's an item that's not written up right now, so the question you would have is maybe one of the things that we've left off in our initial elements that are on the table to discuss is, is there a situation or are there situations where we think we would allow variances so we don't set an unrealistic...

**GREB:** Understood.

**VAN ORDEN:** I think what we heard both entities, from citizens they were just concerned we were just going to issue variances too easily, and the industry, who said we don't think we can get variances anymore. I think neither of those elements are correct, but I think that if we could find a way to be clear in our proposal to Council in situations where the pile driver is an isolated, nonresidential neighborhood – because I can tell you, every neighborhood in the City of Portland has somebody residentially plopped down in the most odd locations. So I don't think we can effectively protect every household, but if something is clearly like Rivergate where there will wind up being one little house on the edge of Rivergate or over by Smith and Bybee Lakes, you'll find like one residence just plopped in somewhere you didn't even realize was there. Or houseboats that are industrially zoned but they're all over the place, that you may not be able to protect all of those habitation locations, but...

**STANDLEE:** South Waterfront, for instance. They did all that and they didn't have any complaints. There was less density then. So I think there needs to be some way for that information to be taken into account also.

**GREB:** The variance process.

**VAN ORDEN:** Isn't that a variance?

**STANDLEE:** If that is what the process is, then sure.

**GREB:** Isn't that straight up the definition?

**VAN ORDEN:** Yeah.

**STANDLEE:** But they need to be made aware of the fact that...

**GREB:** But then it gets – I mean I like the variance process because then it gets vetted, right?

**VAN ORDEN:** The question really becomes – I would argue if somebody came in – if we pass this tomorrow, let's say these things and whatever other changes we might propose tonight and something is on the books that resembles some of the things we see here today, and somebody in South Waterfront comes in – DeWitt walks in the door tomorrow and says, hey, you know, we feel confident that there haven't been complaints. We're going to work in South Waterfront, frankly, if you gave it to me, I'm going to probably deny then and say I disagree at this point. I'm seeing increased concerns. You have more than enough capacity to do it in the envelope of time that we've offered. I think that we've been lucky in South Waterfront. I think we're at a point based on how people have been reacting to the Pabst Blue Ribbon thing. That's one day of the year. We're having a giant concert and people went coo-coo nuts. I mean, you were there taking readings for the Pabst folks. It wasn't terribly loud, it's just that it's a giant change. Now drop pile driving. I think...

**STEWART:** That was on the Zidell site?

**VAN ORDEN:** Yeah. So I think - and we're going to hear that next month. They're going to come back.

**STEWART:** I know.

**SWEET:** This is the first time I've heard you say that people went coo-coo nuts. Actually that's the first time I've heard you use that phrase.

**VAN ORDEN:** Well in the one building. They haven't been vocal to us. I think what has helped mediate that is our suggestions to Pabst that they hold the community meeting and help explain what they're doing and alleviate the fears and explain that they had people on the roofs taking readings and doing all these other things. There were definitely some very sensitive people in one or two buildings, and what was interesting was the building rooftop that I was on that I think some of the staff working with Kerrie were on at one point, people were just as equally impacted. They thought it was the greatest thing in the world. So I mean some of it was unfortunately a little bit generational, and I mean that's just what it seemed to be demographically speaking. That said though, people have been very vocal to our office about the Zidell ship building that they think it should stop, and I've been very sensitive to the fact that this is like a 100-year operation.

**GOSSETT:** How many hundreds of years have they been there?

**VAN ORDEN:** And it's like you just bought a million dollar - because the places I was talking to, the people were paying a million dollars for a Meriwether condo, and you're next to a 100-year-old company and you're in an industrial zone. There's a balance here. It's not perfect, but it's isn't - and their comments were we're in a residential neighborhood. It's, no, you're in an urban mixed use area. There has to be a balance. So I do think we'll hear more concerns on South Waterfront, and I'm saying that so you guys realize if you give it to me to process, my perspective is we have a pretty clear line that we're going down right now is that we expect to protect the public, and that seems reasonable.

**STEWART:** I agree. Sorry for you guys that want change.

**SWEET:** I don't want to change anything.

**STEWART:** I want peace and quiet.

**SWEET:** I have pride of authorship here. I like it the way it is.

**VAN ORDEN:** I like Kerrie's idea. I really do. I think it gets complicated, but it can get at some things that can be more depth to what we're doing.

**GOSSETT:** He's thrown out about six ideas. Which one are you talking about?

**STANDLEE:** The varying...

**GOSSETT:** Okay.

**STANDLEE:** The trade off of time and level.

**STEWART:** A case by case basis.

**VAN ORDEN:** It will be time intensive, so we need to think through that one much more intently.

**SWEET:** Yeah, and I mean we can do it on spec, but I'd feel better if I saw some evidence of successful mitigation techniques.

**STANDLEE:** It doesn't require any mitigation at all. What I'm saying is you say whatever your level is going to be at the receptor, based on that level, you're allowed this many days or this many hours per day.

**VAN ORDEN:** How am I checking that? Who is checking that? I mean there's a bunch of things to outline.

**STANDLEE:** Correct. That's the first question is, is who is the information going to be submitted to, to make that judgment and make that decision?

**GOSSETT:** Do you know that at permitting time? Will you know that at permitting time?

**STANDLEE:** They're going to have to provide that data.

**GOSSETT:** But it is accurate at permitting time?

**STANDLEE:** Pardon?

**GOSSETT:** Is it accurate at permitting time? They can actually make that call?

**GREB:** Yeah, I think they can just adjust...

**GOSSETT:** Just so we don't have to go back – again, staff time and all this cost associated with it.

**STEWART:** But then there's enforcement.

**SWEET:** No, I don't think so. First of all, what I heard today is developer and contractor get together and negotiate, all right, this building that you want built, we'll build it in this amount of time. Then they go in for permits.

**GOSSETT:** Okay. And at that time you already have the site and you know where it is and you know which environment it is in.

**SWEET:** You have the site and you know where it is. You have your plans.

**VAN ORDEN:** Which fits in perfectly because if developer and contractor said this is what we're going to do. We're both estimating together it's going to cost this much, you won't take too much of a hit, you'll make money, I'll make money. The interesting component of that is that also delineates how big they're going to build. Because if all of a sudden you're changing those factors, they might say yeah – because that's what we're seeing on the mixed use zones process is that we're hurting low income housing by adding all these layers where it starts to get expensive where low income housing going higher is not a possibility.

**GOSSETT:** That was my point tonight. And not only low income housing but moderate income housing. It's getting slammed by all these layers of stuff that it costs to do. It doesn't pencil. So it's a problem. That's why I think this is good because it's sleek. It doesn't have layers and layers of stuff.

**VAN ORDEN:** My big concern for Kerrie's idea in the short term, though, is I know and I think David will agree with me and the things that you may have worked on both of you and Julie with the City Council that when we get that layer of complexity, it's going to be far easier for everything to get picked apart and we're not going to get – I feel we're not going to get anything.

**GREB:** Yeah.

**VAN ORDEN:** I think they're going to get confused.

**STEWART:** Keep it simple stupid.

**VAN ORDEN:** It's going to sound real technical.

**STANDLEE:** Oh I wasn't proposing that you propose this right now. I just said this was an idea to look into. I don't have an answer for that.

**SWEET:** Well we do. Because it's not something we're going to propose this year. So we have plenty of time to look into it.

**GREB:** Should we move this forward then? Are we at the point of being able to...

**GOSSETT:** Can we write this out?

**GREB:** That's what I'm getting after.

**SWEET:** All right. Yes. Are we...

**STANDLEE:** Did you make the word change?

**SWEET:** Yes.

**STEWART:** "ing" instead of "er".

**SWEET:** Driving instead of drivers.

**GREB:** And the time to 6 p.m.?

**SWEET:** Oh, no, we need to talk about that.

**GREB:** Okay. You like 8 to 5? What does everybody else think?

**SWEET:** I don't know. Do you want to make it 8 to 6? Give them their 10-hour day?

**STANDLEE:** Yes.

**GOSSETT:** We don't like 7 so they can get set up?

**VAN ORDEN:** Well 7 they can start...

**GREB:** It's just the loudness.

**SWEET:** They can do their setup.

**VAN ORDEN:** We're talking about no starting the piling.

**GOSSETT:** We're only talking about the pile driving. Okay. But that needs to be clarified.

**SWEET:** That's because we changed an "ers" to an "ing."

**GOSSETT:** Because if I were a contractor, I would say "wait a minute".

**GREB:** He says pile driving.

**SWEET:** Pile driving.

**GOSSETT:** Driving.

**SWEET:** Actual hammer noise.

**GOSSETT:** As opposed to being a...

**SWEET:** Can't start before 8.

**GOSSETT:** Pile buck?

**GREB:** Right.

**VAN ORDEN:** It might help us for the process of going to Council and the clarification to the general public as they read what our final recommendations are, because we're going to put a package of everything together, to say that setup time, which is not involving the actual...

**STANDLEE:** Hammering.

**VAN ORDEN:** If there is a way we can come up with a sentence, just a single sentence.

**GOSSETT:** I would also say, are there any unintended consequences that are being created here by all this?

**STANDLEE:** Consequences? They'll say yes.

**GOSSETT:** Can you think of anything? Because when you change things, there are going to be unintended consequences. So I'm just saying. Have we thought this through to the point...?

**VAN ORDEN:** Yeah. I don't think it's unintended, but I think we're going to shift them working later. They normally – I think there's been reasonable comment from the public that...

**GREB:** They get done at 3:30.

**VAN ORDEN:** ...they usually get done earlier. Now there are times when they're behind and they're going right up until 5:30, 6:00.

**STEWART:** Or later.

**VAN ORDEN:** Usually not on piles.

**STEWART:** No, true enough.

**VAN ORDEN:** Yeah. Usually they're pretty good.

**GREB:** They're going to argue that in May, but I think it's inconsequential to the total...

**STANDLEE:** Here's a question. If they currently have had seven to six...

**VAN ORDEN:** Eleven hours.

**STANDLEE:** What if you do 8 to 7.

**GREB:** No, because I think dinnertime is sacred.

**VAN ORDEN:** No.

**STANDLEE:** I'm just saying...

**GREB:** I think 10 is fine.

**SWEET:** I think we have to reduce the hours.

**STANDLEE:** The 11-hour window though is what I'm saying. Is that doesn't change...

**VAN ORDEN:** But they're not using the 11 consistently.

**SWEET:** I think we want it to change. I think we want a shorter day.

**STANDLEE:** Okay. Just throwing it out there.

**SWEET:** But we heard that a 10-hour day is important to people, so let's give them a 10-hour day.

**GREB:** Then you get all of your makeup time.

**STANDLEE:** But you didn't take lunch into account. See they have an hour for lunch right now. Well actually 30 minutes for lunch and two 15-minutes break.

**GREB:** It depends on the union.

**STANDLEE:** That's who's driving this thing. The union.

**SWEET:** We're not writing union rules.

**STANDLEE:** I mean they're taking 11 hours and they only get 10 working hours out of it.

**GREB:** Understood.

**SWEET:** Aw.

**GREB:** They're still working from 7 though.

**STEWART:** If you rewrite the few little changes, then it's ready to go for when?

**GOSSETT:** We have to review it again.

**SWEET:** Okay. Yeah, well...

**STEWART:** Well that means two months from now because they are not going to be here.

**VAN ORDEN:** Our next meeting in a week is – that's our normal board meeting.

**SWEET:** You're not going to talk about this.

**VAN ORDEN:** We would have to move this...

**STANDLEE:** To May Day.

**VAN ORDEN:** Unless you feel that we can draft changes now and also take action on it.

**SWEET:** Well I think we just did. I think we just changed...

**GOSSETT:** It's only 9:00.

**SWEET:** It's not 9:00 yet, but I'm getting close to pumpkinish here.

**GOSSETT:** We still have time to draft it tonight.

**SWEET:** I think we just did.

**GREB:** I think so too.

**GOSSETT:** I think so too.

**SWEET:** We drafted a change from 5 p.m. to 6 p.m. back to 6 p.m. and we changed an “ers” to an “ing.”

**GREB:** And added a sentence of clarification that means the...

**STEWART:** Set up is not part of it.

**GREB:** ...actual noise of the impact hammer cannot start until...

**SWEET:** It just – I just think if we say pile driving.

**GOSSETT:** Okay.

**STANDLEE:** I don't think so, David.

**GREB:** I think it could use some clarification.

**GOSSETT:** You better define that.

**STANDLEE:** I think you should have the clarification in there.

**VAN ORDEN:** I think just a sentence that says...

**STANDLEE:** What is defining pile driving. What that means.

**VAN ORDEN:** I don't think that we need to go overboard with defining...

**STANDLEE:** I'm saying it will define it by making that statement of what you mean by that.

**VAN ORDEN:** We could do it that way. We could do it just by having a sentence that says - if you read the sentence or the language you have there, I think we can just add something after it that says for the element of setup and preparing to actually drive piles, that can start at 7 a.m.

**STEWART:** Or activities related to setting up pile driving.

**SWEET:** You know I wrote it in the way that the other construction...

**VAN ORDEN:** Can continue.

**SWEET:** ...thing is written. That just says, yeah, so what it says is notwithstanding Section B above, which the permissible sound levels of Section 18.10.010, the property line standards shall apply to pile driving from 6 p.m. to 8 a.m. the following morning and 5 p.m. Friday to 8 a.m. the following Monday and on legal holidays.

**VAN ORDEN:** I think we're fine. I think what we would need to do is in our final draft that we're sending off to the public, we need to just have a sentence that says this is our final language. A company setting up to begin piling, which is not an allowed operation, that can meet Title 18.10.010 can do that operation. The minute they start pile driving, they have to wait until 8 a.m.

**SWEET:** I think in the narrative we will put in something that makes it clear we're only talking about hammer noise during those hours. We're not talking about setup of equipment in order to hammer. And that document will express the legislative intent so that it becomes clear, I think, but this is already a complicated way of defining it, and I'm only doing it because that's the way it's done in this section. But to try to put setup time into that thought would make it...

**VAN ORDEN:** I just think as long as we're clear...

**SWEET:** I think that's the only thing. Now I do want to just confirm about notice because that's the other part of this. We're saying that if they're going to do pile driving, what I said here is that they have to mail a notice 500 feet, and Joe Weston complains that when he gets addresses from the city to mail out notices, they're often property owners and not residents. We said – Paul and I discussed this – if they use a mailing service, just give them a radius and they can generate all the addresses and do a mailing to all those addresses.

**VAN ORDEN:** Occupant, occupant, occupant. I mean that's traditionally what planning...

**SWEET:** Yeah, and that's – when the city does a mailing, I think they tend to do it to owners, but that's a different thing.

**COUCH:** That's using Mapworks, and that's how it comes out and we get tons back. It's a terrible system.

**VAN ORDEN:** So we wouldn't be generating the actual mailing addresses.

**SWEET:** No, we're just...

**VAN ORDEN:** We would generate the radius.

**SWEET:** We're saying that...

**VAN ORDEN:** We would say you have to hit everybody here.

**SWEET:** We're saying the property owner is responsible for this, and that's – I thought that's a reasonable place to put it. The property owner. I'm not saying the developer, the contractor, the pile driver contractor, no. But somebody has to be responsible and they have to make it happen. Now whether it happens we won't know.

**GREB:** How about to 500 feet, the radius, and the Noise Office so they have to send one to the Noise Office that tips you off? Would that – I'm just saying that builds in some sort of accountability.

**STEWART:** I thought you always did that.

**VAN ORDEN:** We usually do that.

**GOSSETT:** You get it?

**GREB:** But I mean, how effective is that? I have no idea.

**VAN ORDEN:** The biggest problem is...

**STANDLEE:** It's not in the code. I think it needs to be put in there if you want it included.

**GOSSETT:** It's a good idea though. Then you know it's happening.

**VAN ORDEN:** So the biggest issue is, remember, because I'm going to have to say this to City Council. This is not a perfect fix either because if they show me proof that they've mailed to 1,000 people and I would say statistically there's going to be a notable number of people, 20 people, not get it. And what happens if that happens to be a day when we hit 20 people who feel like they've been impacted by work and they go, "I didn't even know about this"? So the question becomes are we improving the system? Yes. Is it a better system? Yes.

**SWEET:** Is it fail safe? Absolutely not.

**STEWART:** There isn't such a thing.

**VAN ORDEN:** No, but I think we've heard a lot of comment about improving notification. I think that the mailing will add \$1,200, \$2,000. That's life. That's what you're going to have added.

**SWEET:** Now my original idea was make them post a sign. A big sign with big letters...

**GREB:** Good news! Pile driving starting soon.

**SWEET:** Yeah.

**STANDLEE:** Coming to your neighborhood .

**SWEET:** Paul persuaded me that that was inadequate for notification and that we had to require mailing.

**VAN ORDEN:** Yeah, I mean who – somebody who might be active in the Neighborhood Association or might have had issues in the past will know to go look and see, but I think we should mail. I think it is reasonable.

**STANDLEE:** Especially when they keep parking the big van in front of that sign. You can't read it.

**GOSSETT:** Well someone said it should go to occupant, too, and that's really an important point.

**GREB:** You use a mailing service.

**SWEET:** So you're comfortable with that?

**STEWART:** Are we going to decide on the noise impact area tonight, too?

**STANDLEE:** No, that's policy.

**STEWART:** Okay, I'm just asking.

**VAN ORDEN:** Well we can decide if we're going to incorporate it.

**SWEET:** I tend to agree that we need to wordsmith that some.

**VAN ORDEN:** So we will table that part.

**SWEET:** We can work on that because that's internal.

**STANDLEE:** Right.

**SWEET:** That's not something we're going to be bringing to Council.

**VAN ORDEN:** Would we feel comfortable saying that we would begin to address that again at the May meeting? Because I would not like to have that...

**SWEET:** Yeah, I'm happy to say that.

**STEWART:** Are you back by then?

**GREB:** Sure, yeah.

**STEWART:** Okay, and you too?

**SWEET:** Yeah. I'm only gone a week. It just happens there is a Noise Review Board meeting in that week. I could go another week, but then I wouldn't hear the French Quarter Jazz Festival if I went a different week so that's the week I'm going.

**STEWART:** You have to do that, yep.

**VAN ORDEN:** I've never missed a Noise Board meeting in 20 years, and the interesting part is in recent years, the last about 10 years or so, with Last Thursday happening, it's become a very interesting affair because I really haven't missed a Last Thursday to try and figure out when the heck I'm going to take a vacation between – it gets very goofy.

**GREB:** Noise Review Board and Last Thursday.

**VAN ORDEN:** So now the Mayor's office is cutting off May and September in order not to impact kids in school and parents trying to get kids to sleep. Because the people are partying pretty late that they feel that's reasonable, which it is, that that takes two more days off, so I'll have to time it right after the May Noise Board meeting.

**SWEET:** You've got two small children. You don't get vacations.

**VAN ORDEN:** We actually do. We don't believe in that. We travel with them.

**GOSSETT:** It doesn't happen until they're out of college usually.

**STEWART:** Yeah, that's when you first get to read a book.

**GREB:** Are we good to move to adjourn or...?

**STANDLEE:** Somebody has to make a motion.

**GREB:** Is there anything else?

**SWEET:** Wait a minute. Okay, and variances I think we're clear on that.

**VAN ORDEN:** Staying with the EX.

**SWEET:** I think this afternoon's hearing made it abundantly clear.

**STANDLEE:** I think somebody needs to make a motion.

**GOSSETT:** I make a motion that we adjourn.

**VAN ORDEN:** No, no, no. Somebody has to approve...

**GOSSETT:** Oh that. I thought you wanted to adjourn.

**STANDLEE:** I've got to vote.

**GREB:** I move that we approve it per our written changes...

**SWEET:** As amended tonight.

**GREB:** As amended, yes.

**GOSSETT:** And I will second.

**VAN ORDEN:** And I will just make a friendly amendment that part of those changes were that part of the policies and procedures are going to move and be tabled to a future meeting.

**SWEET:** Yes.

**VAN ORDEN:** Hopefully May.

**SWEET:** Thank you. Any further discussion?

**GREB:** No.

**SWEET:** All in favor say aye.

**ALL VOICES EXCEPT STANDLEE:** Aye.

**SWEET:** Opposed? Abstaining?

**STANDLEE:** Aye.

**SWEET:** You're abstaining?

**STANDLEE:** I'm abstaining just because I'm so new to this I don't feel I have enough information to totally...

**GREB:** Can I move that we adjourn?

**SWEET:** Understood.

**GOSSETT:** I'll second.

**SWEET:** Okay, let's talk about it for a while.

**STANDLEE:** Talk about what?

**SWEET:** Julie's motion to adjourn. All in favor?

**ALL VOICES:** Aye.

**SWEET:** Okay, we are adjourned.

**MEETING ADJOURNED – 8:53 PM**