

Moore-Love, Karla

From: Seth Meyer <seth.e.meyer@gmail.com>
Sent: Wednesday, March 08, 2017 9:02 AM
To: Council Clerk – Testimony
Subject: Title 11 Tree Code--resident feedback

To whom it may concern,

I own the residential property 4910 SW Moss St in Southwest Portland that would be affected by the proposed changes to Tree Code 11.05.110. Currently there is a wide swath of trees down a steep embankment adjacent to my property, near Multnomah Blvd. From the proposed language I have seen, it's very likely that I would be financially responsible for maintaining these trees.

This is a stretch of property that I will never use and would have a terribly difficult time accessing from my property. Maintaining these trees would place an unfair financial burden on myself as well as my neighbors facing a similar situation. I ask you to please reconsider making this proposed change.

Thank you for your time. I am happy to discuss any questions or concerns you have.

Sincerely,

Seth Meyer, MD

Moore-Love, Karla

From: Thomas Hickey <thomas.e.hickey@gmail.com>
Sent: Wednesday, March 08, 2017 7:18 AM
To: Council Clerk – Testimony
Subject: Council Agenda Item 229 - Tree Regulations

How can the commissioners justify saddling homeowners with maintenance of large parcels of public land adjacent to their properties? Do the commissioners believe it's acceptable because it is likely to affect a small number of property owners? Do the commissioners think it's acceptable to implement a burdensome and unjustified regulation because it only affects property owners and property owners are not a worthy constituency?

This regulation fits squarely in the definition of tyranny, oppressive power exerted by government. It obviously is not significant to the commissioners, but it is certainly important and significantly affects the credibility of the commissioners. Carelessly adopting these changes to the regulations undermines the support for the agendas the commissioners care about.

Thomas Hickey
7422 Sw 37th Ave
Portland, OR 97219
5p3-841-3572

From: Ben Burnett <ben.f.burnett@gmail.com>
Sent: Tuesday, March 07, 2017 11:18 PM
To: Council Clerk – Testimony
Subject: Title 11 Tree Code

I am writing to express my concern with the proposed change to Title 11, specifically the addition of language assigning liability for trees in "...any adjacent unimproved or partially-improved rights-of-way..." to the adjacent property owner. I believe this language is overbroad and will unfairly impact some homeowners when taken to its logical conclusion. For example, this could potentially make me liable for trees that are not only *not* on my property, but...

- a) are not safely accessible/maintainable from my property, and
- b) are part of a greenway setback tied to Multnomah Boulevard, which would lead any reasonable person to believe they are the responsibility of the City.

In short, this is an unfair financial and liability risk for a handful of homeowners.

Thank you,

Ben Burnett
7952 SW 46th Ave.

From: Hayley Nunn <hen5f@hotmail.com>
Sent: Tuesday, March 07, 2017 10:14 PM
To: Council Clerk – Testimony
Subject: Comments for agenda item 229 scheduled for 3/8/17

The proposed language to 11.05.1100 in Title 11 Trees Code is unfair and creates an excessive burden on property owners. 'Unimproved or partially improved rights of way' cannot be left to property owners, whose property does not include these areas and, in some cases, cannot even be accessed by property owners. The transition of this responsibility creates an unfair financial burden and liability risk placed upon a small number of homeowners. Please do not add this proposed language, and engage with relevant property owners to find a more tenable solution.

Hayley Nunn
7956 SW 46th Avenue
Portland, OR
503-816-9464

Moore-Love, Karla

From: Jennifer Lucas Young <jlucasyoung@gmail.com>
Sent: Tuesday, March 07, 2017 8:38 PM
To: Council Clerk – Testimony
Cc: JOHN MATCOVICH
Subject: March 8th - Agenda item 229

We are writing in reference to Agenda item 229, which proposes making changes to the Title 11 Tree Code. We are extremely concerned that the language being added to the Title 11 Trees Code holds the potential to severely impact owners of property situated near undeveloped city right-of-way property, in our case between our home and a major thoroughfare, and should not be considered as a “technical amendment”.

The language proposed as a technical amendment in *agenda item 207* could create a huge financial liability for us and for other homeowners whose properties are located next to unimproved city property, and therefore, should not be considered as a technical amendment. This is a huge expansion of Title 11 liability and should be carefully considered before adoption. In our case, we do not have access to this property, as it is the side of a steep slope. For us to even get to the bottom of this property, we have to walk, or drive, all the way around, down two roads before even getting to Multnomah Blvd. Unlike someone who has a sidewalk or planting strip in front of their house, we do not get any more use out of this property than anyone else. Furthermore, as shown in the photographs below, the hillside is eroding from the winter storms, and it seems like instead of shifting the costs to us for maintaining trees on city property, the conversation should change to how the city will protect their land so that it doesn't impact the private property and buildings next to city property. Although I have included photographs below, we invite the Mayor and City Commissioners to our home to get a first hand view of the recent storm damage and a better understanding of the unfair financial burden we could incur.

Please ask Urban Forestry to provide an assessment of the impact of this amendment before moving forward. If you do choose to move forward with this amendment, we request that you read into the legislative record that it is only intended to cover “street” trees in the way most people understand that term. The proposed language is underlined below for your reference.

Thank you for considering our testimony,
 Jennifer Young and John Matcovich
 7821 SW 47th Ave, Portland

Please see the attached photos

11.05.110 Liability. A. Permits required. Any person pruning, removing, or conducting any other work on any Street Tree or City Tree and any person removing any regulated Private Tree in order to comply with the requirements of this Section, shall first obtain a Type A tree permit in accordance with the provisions of Chapter 11.30. The application fee may be waived when the City forester has directed the work to be done. B. Every property owner shall be liable to persons injured or otherwise damaged by reason of the property owner's failure to keep his/her private property, any adjacent unimproved or partially-improved rights-of-way, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be hazardous to public travel. C. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by this Title.

Commentary
 Item 42 – Tree Code – Liability of ROW Trees
 11.05.110.B Liability.

The amendment aims to better clarify property owners' responsibility for tree maintenance in adjacent, unimproved, or partially-improved rights-of-way, in addition to sidewalks, planting strips, and on their property.

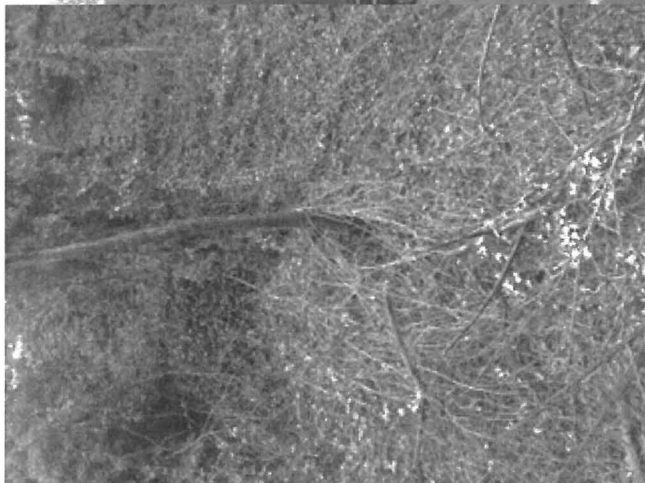
The first picture is looking down from above at onto Multnomah Blvd. below. The other photographs show the hillside and recent storm damage that we would be expected to pay for with the proposed changes to the tree code.

This modification in two sections of the Tree Code (11.05.110 and 11.60.060) will avoid confusion in



maintenance responsibilities and liability moving forward





Moore-Love, Karla

From: Rick Masters <rcmpdx@gmail.com>
Sent: Tuesday, March 07, 2017 2:58 PM
To: Council Clerk – Testimony
Subject: Agenda Item 229
Attachments: Cheltenham.png

Our property is located at 758 SW Cheltenham St and we have been maintaining our easement on Cheltenham (map attached). That seems reasonable as I consider it part of our property. The proposed tree code change appears to impact ROW property at the back of our house. We do not understand how the proposed change clarifies our responsibility. The side of our property connects to the ROW. Would we have any responsibility down to Terwilliger? There are several houses that connect to the ROW. How is responsibility assigned? This is not property that we own, use or have easy access to. We do not support this change and consider it an unfair burden to property owners.

Please do not pass the tree code change. Thank you for your consideration.

Rick Masters
Thom Kincheloe
758 SW Cheltenham St.
Portland, OR 97239

(cell) 503-956-2772

Moore-Love, Karla

From: Lora Keenan <keenanlora@gmail.com>
Sent: Tuesday, March 07, 2017 2:55 PM
To: Council Clerk – Testimony
Cc: City Ombudsman
Subject: March 8, 2017 City Council Agenda Item #229
Attachments: Scan 2017-3-7 14.47.19.pdf

Greetings - I've attached comments on agenda item #229 for tomorrow's city council meeting. Thank you very much. - Lora Keenan

Lora Keenan
7944 SW 56th Ave.
Portland, OR 97219
503-708-3072 / keenanlora@gmail.com

March 7, 2017

Subject: March 8, 2017 Portland City Council Agenda Item #229
Amendment of Portland Tree Code to transfer liability for unimproved
rights-of-way to adjacent private property owners

Dear Mayor Wheeler and Members of the City Council:

Thank you for considering my comments on this proposed amendment to Title 11 of the Portland City Code (PCC).

For the reasons explained below, I strongly urge you to *reject* this amendment. The proposal is not “merely a technical fix” to the tree code. Rather it is a substantial and unfair *shift* of liability to individual property owners. In addition, this proposal has been presented to you without appropriate public discussion, and it runs counter to the intended purpose of the tree code, which is to promote public support for the urban tree canopy.

This proposal would add the emphasized phrase to PCC 11.015.110 “Liability”:

Every property owner shall be liable to persons injured or otherwise damaged by reason of the property owner’s failure to keep his/her private property, any adjacent *unimproved or partially-improved rights-of-way*, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be hazardous to public travel.

I only recently became aware of this proposal by efforts of my neighbors, not by a transparent public process. On March 5, 2017, my neighbors on SW 47th Avenue, Rita Snodgrass and Kathleen Ward, let me know about this proposal. Like them, I own a home that would be unfairly subjected to staggering risk as a result of this proposal.

Since 1996, I have owned a home that is adjacent to an unimproved right-of-way between my property and SW Multnomah Boulevard. This right-of-way is approximately 60 feet wide and consists of land that slopes at a steep angle down to SW Multnomah Boulevard. The right-of-way is entirely covered with trees and other vegetation. It is impossible to walk from my property to SW Multnomah Boulevard. The right-of-way has been in substantially the same condition during the 20+ years that I have owned my home.

As reported in the Oregonian on March 1, 2017, I understand that city staff has characterized this amendment as “merely a technical fix.” I strongly disagree with that characterization.

Adjacent rights-of-way like the bluff between my land and Southwest Multnomah Boulevard differ from the sidewalks and planting strips already covered by PCC 11.015.110 in significant ways:

- This right-of-way is approximately 60 feet wide, much wider than even the combination of a sidewalk and parking strip.
- Given the extreme slope and dense vegetation, safe access to this right-of-way is impossible for a layperson without advanced safety equipment. Accordingly, adjacent property owners cannot assess and fix hazards in this right-of-way as they could with sidewalks and parking strips.
- Again given the slope and dense vegetation, this right-of-way presents a level of potential liability and expense extremely more onerous than that posed by sidewalks and parking strips. This right-of-way is prone to landslides. In fact, in the late 1990s, part of this right-of-way immediately to the west suffered a partial slide after heavy rainfall. The city then erected a gabion basket wall to protect against further erosion. The expense of that kind of project is far beyond what an individual property owner might have to undertake to fix a cracked sidewalk or remove a diseased tree from a parking strip.

The Oregonian also reported that City Planner Jeff Caudill “said that the Bureau of Planning and Sustainability considered the tree code change a technical one because it better aligns property owners’ liability for taking care of trees with their liability for maintaining unimproved streets.” I disagree with this characterization as well.

First, contrary to Mr. Caudill’s assertion, the proposed amendment to PCC 11.015.110 covers more than trees. It would place on private property owners liability for the entire right-of-way, including both vegetation and the land itself. Second, for the reasons stated above, this right-of-way cannot be reasonably compared with an unimproved street. Access to this right-of-way is extremely dangerous, unlike access to an unimproved street. And the potential hazards and expenses related to this right-of-way are exponentially greater than those of an unimproved street.

Finally, the Oregonian reported that city staff has stated that the city simply can’t afford to maintain these rights of way. Has city staff presented you with projected cost savings to the city from shifting this liability to individual property owners? Frankly, if the city can’t afford to maintain and bear the risk of these rights-of-way, it’s difficult to imagine how individual property owners can be expected to do so. Pooling common risk is a fundamental reason why we have government in the first place.

The situation on the bluff above Multnomah Boulevard is not unique. Given the terrain in Southwest Portland, there are undoubtedly similar situations – if not situations in which it would be even more unfair to impose such significant risk and financial exposure on a small number of property owners.

A homeowner in my situation, facing the potential staggering liability of maintaining public land, will be forced to pursue removal of vegetation that might pose a hazard to nearby streets, including the numerous trees that present the biggest hazard. That would

be completely inconsistent with the intent behind the tree code of improving the urban tree canopy.

For all these reasons, I urge you to reject this amendment. At the least, given the short amount of time affected property owners have had to learn about this proposed change, I would suggest that you delay a vote on this amendment and direct the Bureau of Planning and Sustainability to revisit the issue, this time conferring with local neighborhood organizations and affected property owners.

Thank you again for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lora Keenan", written in a cursive style.

Lora Keenan

Cc: Margie Sollinger / Tony Green

Moore-Love, Karla

From: Terry K Thompson <kat.terrythompson@integra.net>
Sent: Tuesday, March 07, 2017 1:46 PM
To: Council Clerk – Testimony
Cc: Wheeler, Ted
Subject: Agenda Item 229

Dear Portland City Council,

I am writing again to address the upcoming vote on the Title 11 Trees code Amendment, Agenda Item 229. I am a property owner on this designated "Scenic Corridor" and we could not sustain the financial burden such an ordinance would inflict. We are already responsible stewards of the some of the most old beautiful Douglas firs on our property, to attach additional maintenance of public property trees is quite unfair and financially unjust, we have limited resources and could not pay such heavy fees. The strip of public property in question has never been maintained by the city and is overgrown with old ivy vines. It is quite a long, steep stretch of slope and is suffering from erosion, which has been extreme this year due to the heavy winter snow and unrelenting rain this spring. I have tried to get grants and help in the past to clear the ivy and to help preserve the trees, but to no avail. I have ringed trees when I can, the ivy trunks are old, thick and deep. Please reconsider this action and step up to do what is right and not consider this technical amendment, putting an unnecessary and extreme burden on the homeowners on this stretch of Multnomah Blvd.

Thank you for listening.

Sincerely,

Kathleen & Terry Thompson
4505 SW Maplewood Road
Portland, Oregon

Moore-Love, Karla

From: Libby Jefferson <libby632@aol.com>
Sent: Tuesday, March 07, 2017 12:31 AM
To: Council Clerk – Testimony
Subject: Agenda item 229 3/8/17 vote

While this is being framed as some type of clarification and technicality it is clearly a burden shift that does not appear equitable.

As a Portland homeowner there is a lot of responsibility already and taxes feel heavy. It may be a tipping point for some that are struggling.

We expect better of our city than a move like this. I hope the council members will rethink the direction of this.

Thank you,
Libby Jefferson
3540 SW Baird st
Portland, Or. 97219
Libby632@aol.com

Sent from my iPhone

Moore-Love, Karla

From: Paula Hastings <pnch17@yahoo.com>
Sent: Monday, March 06, 2017 6:15 PM
To: Council Clerk – Testimony
Subject: Agenda Item 229



effects on homeowners when you vote on this measure. Such financial event could be devastating to our citizens, includir



Moore-Love, Karla

From: Will <willandsons@comcast.net>
Sent: Monday, March 06, 2017 11:03 AM
To: Wheeler, Mayor; Council Clerk – Testimony; Commissioner Fritz
Subject: In Opposition to the Title 11 Trees Code

I am writing in opposition to the proposed changes to the Title 11 Trees Code, making residential home owners responsible for tree maintenance on adjoining public property. The changes are: 1) ill-defined as to the scope of public property areas affected; 2) shifts financial responsibility for maintaining **public** property to **private** citizens; 3) lacks merited public discussions on this controversial action; 4) gives no authority to the management of these public spaces—only financial responsibility; 5) affects homeowners who have already purchased their homes under different and less risk-intensive legal standing; 5) is being implemented in a city with exceedingly high taxes.

Will you be telling us next that we will soon be paying for the cost of fixing potholes on the street in front of our houses? DO YOUR JOB AND MANAGE THE CITY WITHOUT TRYING TO SNEAK FINANCIAL RISK FROM PUBLIC RESOURCES TO PRIVATE INDIVIDUALS. We will be watching and I promise you **we vote.**

Will Anderson
503.293.2137



Virus-free. www.avast.com

Moore-Love, Karla

From: dianeallen52@comcast.net
Sent: Monday, March 06, 2017 10:05 PM
To: Council Clerk – Testimony
Cc: kattnrita@gmail.com
Subject: Proposed change to Title 11 Trees Code, Agenda Item 229

Dear City Counsel members.

We are Roger and Diane Allen, 5692 SW Multnomah Blvd., Portland OR 97219. We are absolutely against this unfair Code 11.05.110 Liability A, which could financially ruin us. We are both retired Federal Employees and are only able to take care of our own property. We have liability homeowner's insurance covering any accident occurring on our own property. The very idea that we could be held responsible for any harm caused by the City property across the street from us on Multnomah Blvd. just can't be expected to be our cost. We don't own the City property across the street and thus don't have liability insurance covering it. We live modestly on our pensions just like others. This potential budget cut for the two of us hardly equals any budget cut for the City of Portland. Please help us save our home from third-party liability. Let us ask each of you how you would like this unfair liability to happen to you?

Regards,

Diane and Roger Allen
5692 SW Multnomah Blvd.
Portland, OR 97219
Home: 503-244-8599

Moore-Love, Karla

From: Steve Langasek <vorlon@dodds.net>
Sent: Monday, March 06, 2017 9:17 AM
To: Council Clerk – Testimony
Subject: testimony on Title 11 Trees Code changes (March 8 Agenda Item 229)

I am writing today to submit testimony on Agenda Item 229 for the upcoming meeting on Wednesday, March 8.

This agenda item, which is presented as a set of "technical" rules changes, in fact has the adverse effect of shifting liability and responsibility for damaged trees to a small number of property owners whose lots abut unimproved rights-of-way.

I understand that this rules change is motivated by budgetary concerns. I have all the sympathy in the world for the urban forestry department's budget woes. But this does not justify a shift in liability to individual property owners for what has always been, and should very clearly remain, the city's responsibility.

Our home's lot at 7943 SW 56th Avenue backs onto the same Multnomah Blvd. right-of-way as that of Ms. Snodgrass and Ms. Ward. At our property, that unimproved right-of-way consists of a steep, untraversable, 50-foot-high hill overlooking the road. It is set aside as an unimproved right-of-way precisely because the terrain permits no other use for the land.

The proposed wording change has the following unreasonable, and probably unintended, effects:

- If a tree that is in line with our property, but not visible from our property, falls and injures someone on Multnomah Blvd, the City would hold us liable, even if the urban forestry department had not identified it to us as requiring maintenance.
- If someone attempts to *traverse* the unimproved right-of-way, is injured, and seeks compensation from the City, the City could hold us liable for not "[keeping the] unimproved right-of-way [...] in a safe condition so as not to be hazardous to public travel".
- If someone attempts to traverse an unimproved right-of-way that is not adjacent to a public street at all, is injured, and seeks compensation for their injury, the city could hold the owners of adjacent property liable.

If the city has need of my chainsaw, I am more than willing to put it at your service for removing damaged trees. But it is not reasonable for the city to seek to hold property owners like us liable for any possible injuries sustained due to a lack of maintenance of trees that are part of a right-of-way that has quite deliberately been left unimproved.

--
Steve Langasek

Moore-Love, Karla

From: CAROLE IVY <ciweaver@msn.com>
Sent: Monday, March 06, 2017 8:11 AM
To: Council Clerk – Testimony
Subject: Title 11 Trees Code

This is an appeal to Commissioner Nick Fish and others on the City Council who will be voting on Title 11 Trees Code on March 8, 2017. I am a disabled senior who has had to maintain a large public access space for the last 10+ years at great expense to someone living on a fixed income and @ 1/2 the Federal Poverty level! Now, yet another Burden is being placed on the citizens of Portland. Unlike most other cities in this nation, we in Portland are saddled with costs that we should not have to bear with the high property taxes that we pay and the ridiculously high “water” fees we pay as well.

I am **AGAINST** this proposed Code placing yet more costs upon those of us who cannot keep up with all that we are already taxed highly to pay. The city should take care of their own lands with the high costs we citizens have to pay for city services. To ask us to pay for more, especially those of us most vulnerable, is **Unconscionable!**

Please **VOTE AGAINST the Title 11 Trees Code** and in favor of your citizens, or there will be a mass exodus from your Draconian measures!

Thank You for your serious consideration of this highly controversial matter!

Carole Ivy
Multnomah Village

Moore-Love, Karla

From: J. and M. Holderness <holdern@gmail.com>
Sent: Sunday, March 05, 2017 7:32 PM
To: Council Clerk – Testimony
Subject: Proposed changes to the Title 11 Trees Code, up for a council vote on Wednesday, 3/8, Agenda item 229

Dear Portland City Council:

The proposed new tree rule, requiring residents to care for and even cut down trees that are not on their property,

at their own expense,

is unfair and unreasonable, in fact

it's

outrageous. We pay high taxes to the City to take care of City property. We should not have to pay to take care of the City's trees in addition, and it is particularly unfair to property owners who happen to own property contiguous with City property.

I urge you to reject the proposed changes, and to change the existing rule to prevent this kind of unfairness in the future.

Respectfully,

John Holderness
2803 SW Ruby Terrace,
Portland

Moore-Love, Karla

From: Rita <ritasnod@gmail.com>
Sent: Sunday, March 05, 2017 5:01 PM
To: Council Clerk – Testimony
Subject: Title 11 - Agenda Item 229

Mayor Wheeler, Commissioner Saltzman, Commissioner Fritz, Commissioner Fish, Commissioner Eudaly,

I am writing to oppose the addition of “any adjacent unimproved or partially-improved rights-of-way” to the language in section 11.05.110 of the Title 11 Trees Code.

I support the idea that homeowners should take responsibility for true Street Trees. The common understanding of a Street Tree is a tree which immediately borders a property, for instance a tree located within a green strip between the sidewalk and street. True Street Trees provide benefits to the adjacent homeowner and can be monitored and accessed by the adjacent homeowner. This is the intent of the Title 11 Trees code as it is currently written.

In many cases, particularly in Southwest Portland, there are large swathes of city-owned property bordering neighborhoods, which are inaccessible steep slopes, cannot be maintained by the neighboring property owner, and are proportionately much larger than most city-owned right-of-way property covered by the Street Trees maintenance requirement. These areas require professional maintenance involving special equipment and traffic control while work is performed. Trees located within these areas are not commonly understood to be Street Trees. SW Multnomah Blvd, between 45th Ave and Garden Home Rd, and SW Capitol Hwy, between SW Burlingame Ave and SW Terwilliger Blvd are examples of this type of property. These areas should be considered a part of the public commons and the financial burden of caring for them should be shared by the community.

Adding in unqualified language about unimproved or partially-improved rights-of-way has the unintended consequence of making some homeowners responsible for trees that cannot be observed or accessed from the adjacent property and that do not provide any benefit to the homeowner. This creates an unfair and disproportionate financial burden on a small number of homeowners with lots situated next to very large city-owned right-of-way properties and threatens the credibility of, and support for, the tree code.

I urge you to reject the addition of this new language and to clarify the code to provide a reasonable, fair, and clear definition of property owner responsibility.

Respectfully,
Rita Snodgrass
Kathleen Ward
7964 SW 47th Ave

Moore-Love, Karla

From: Cantor Shivers <cantor.shivers@gmail.com>
Sent: Saturday, March 04, 2017 10:51 PM
To: Council Clerk – Testimony
Subject: agenda item 229

Please do not make citizens responsible for taking care of trees or other vegetation on land that is not adjacent to their property. Removing trees is a big expense that should not be put on property owners who do not benefit from the trees in question.

Thank you for your consideration.
Linda Shivers

--
Cantor Linda Shivers
(515)954-5221
cantor.shivers@gmail.com
member of the American Conference Of Cantors
(ACC) www.accantors.org
member of Cantors Assembly (CA)
www.cantors.org

From: Ariel Zita Salzman <ariel.salzman@gmail.com>
Sent: Saturday, March 04, 2017 8:44 PM
To: Council Clerk – Testimony
Subject: Agenda item 229

Portland City Council,

I am writing to voice my opposition to agenda item #229, in which property owners will be responsible for the upkeep and/or removal of trees not even on their property.

This Item will unfairly place a financial burden on homeowners in the City. It is another example of how out of touch City Council is with the rising cost of living in Portland. As Portland residents, we pay high income taxes and high property taxes, yet last year when my neighbor called the city to report large pot holes on our street, she was informed that we, the adjacent property owners, are responsible for our street's upkeep. Asking us now to pay for the upkeep of trees on City property that is adjacent to ours is absolutely ridiculous.

Please respect your residents enough to provide services on City property for the high taxes we pay.

Thank you,
Ariel Z Salzman

4424 SW Marigold St
Portland, Oregon 97219

From: steent@igc.org
Sent: Saturday, March 04, 2017 5:07 PM
To: Council Clerk – Testimony
Subject: PROTEST in relation to 3/8 agenda Item 229; The Tree Code Change

To whom it should concern:

I am aware of a situation developing in SW, in which adjacent property owners are being forced to maintain trees on city property near but clearly not on their own property.

I am writing to strongly protest the apparent change in the tree code likely under consideration under agenda item 229 on 3/8. City property needs to be the City's responsibility!! Charging and even worse penalizing adjacent property owners for maintenance of city property is fundamentally unfair and an abuse of city authority.

The general statement in Title 11 is very misleading, and clearly does not indicate the extension of maintenance being required of adjacent property owners.

Title 11 clearly is a Trojan horse in relation to this unfair and inappropriate transfer of responsibility from the city to nearby property owners.

This highly unfair situation needs the city to take responsibility for city property !!!

Thanks for your consideration of this input,

Trygve Steen
SW Portland Resident
2910 SW Luradel Lane

Moore-Love, Karla

From: Michael Driscoll <mibarzusky@aol.com>
Sent: Saturday, March 04, 2017 5:00 PM
To: Council Clerk – Testimony
Subject: Title 11 Tree Code: Agenda Item 229

Dear Portland City Council

We would like to voice our concern about the proposed change in city code. If the council changed this item to make homeowners responsible for trees either adjacent to or next to their property, it would place additional financial burdens on homeowners. This change would be particularly difficult for those who are retired or on a fixed income.

Being in an area in SW Portland with many undeveloped roads, this change would impact our neighborhood in a substantial way.

We would like to urge the council to listen to neighbors and not shift the city's financial and labor burden to taxpayers. Thank you for your consideration in this matter. Sincerely, Mike Driscoll

9286 SW 3 rd
Portland OR
97219

Sent from my iPhone

Moore-Love, Karla

From: Annette Lopez <cyberslider_2000@yahoo.com>
Sent: Saturday, March 04, 2017 3:11 PM
To: Council Clerk – Testimony
Subject: Agenda item 229

To whom it may concern,

I am writing to convey my disappointment in this measure. How can land owners be responsible for property care and management of land they do not own. I have no problem maintaining trees in my property, either I was aware of their presence upon purchase or made the conscious decision to purchase them. Now, the city wants to force me to maintain trees not in my property, that I was given no choice in their presence. This is a ridiculous ditching of responsibility by the city.

I am sure that folks being forced to do this will only later claim the upkeep of the property in a future attempt to take possession of it, and honestly why shouldn't they, it was their blood, sweat, tears, and money that maintained said property. If we are forced to maintain properties when it is not maintained by the legal owner, we as homeowners may, by adverse possession, pursue claims of ownership to such properties. Asking homeowners, already burdened by increasing property taxes, to additionally pay for maintenance of property that is the responsibility of the city, further perpetuates the notion that the city is inept in managing its budget. Please reconsider the measure, city owned free space needs to be maintained by the city.

Respectfully,
Annette Lopez & Shaun Goodyear

Moore-Love, Karla

From: That Guy <monkykungfu@outlook.com>
Sent: Saturday, March 04, 2017 10:10 AM
To: Council Clerk – Testimony
Subject: Agenda item 229

For having such an audacious motto as 'The City that Works', Portland sure doesn't. The latest kick the can effort is to create an unfair burden on homeowners via the Title 11 Trees Code. This is more proof of how out of touch Portland leaders and bureaucrats are. Greedy, with no financial oversight, you continue to take, yet give nothing. Making this change, I assure you, will create further political illwill, as residents are gravely tired of your lack of logic and greedy ways. But more to the heart of the matter, YOU, as a collective entity, need to take responsibility. EVERYONE in Portland is too quick to point fingers and assign blame. In this case, having residents pay for your problem is not the answer. Be better. You are better than this.

From: Chris H <cvh@twofirs.com>
Sent: Saturday, March 04, 2017 9:23 AM
To: Council Clerk – Testimony
Subject: City Council Agenda item 229, private maintenance of public space.

Members of the Council,

The system as it exists and is being exercised upon several homeowners near Multnomah Boulevard seems absurd to me.

First, the code states that property owners are responsible for adjacent public right of ways, but since the public right of ways is one giant, rambling piece of land, you can argue that all property is adjacent and therefore the burden should be shared by the public.

Second, it was the maintenance of the city government that allowed the trees in question to grow to the point of being a hazard. It seems unjust for the city to abandon its responsibility now and foist the financial blame on a few households.

I urge you to find an alternate solution that does not unfairly penalize property owners

Christopher Houghton
8629 SW Capitol Hwy.
Portland, OR 97219

Moore-Love, Karla

From: Janet Kuh-Urbach <jankuhlurbach@gmail.com>
Sent: Saturday, March 04, 2017 8:22 AM
To: Council Clerk – Testimony
Subject: Agenda item 229

Greetings Commissioners:

Once again, I urge you NOT to change the tree code to require homeowners to shoulder the burden of taking out dead, dying, or downed trees that are remotely located on the properties. The situations that you are trying to absolve the City of responsibility for are of interest to ALL of us impacting our safety as pedestrians, cyclists and vehicle drivers on roads that are already under your jurisdiction.

Residents have been more than willing to help purchase, plant, maintain allowable types of trees in planting strips at times with great expense to them. What about some reciprocity for folks who find themselves targeted by your most recent attempts to alter the tree code?

Jan Kuhl-Urbach, Markham Nieghborhood

Moore-Love, Karla

From: Phyllis <phyllisb@gmail.com>
Sent: Wednesday, March 01, 2017 1:44 PM
To: Council Clerk – Testimony
Subject: Agenda item 207 - Trees on public property

Hello,

I'm very concerned that private citizens are being asked to pay for work on public lands near their homes. oregonlive.com/politics/index.ssf/2017/03/portland_homeowners_could_have.html

This obligation is not clear in the sale of a home and seems like a way to extract money from homeowners to make up for budget shortfalls. This type of expense should be covered by property taxes and other public funds. The land and trees in question is not owned by the homeowners. It's deplorable that Portland Parks & Recreation is trying to foist the maintenance for this land to homeowners.

Could the homeowners then use that land? If these homeowners improve this land by doing improvements or paying for improvements, can they then claim Adverse Possession? If no, why not? They are paying to improve the land.

I don't see a reason in <https://www.oregonlaws.org/ors/105.620> "Acquiring title by adverse possession" that these homeowners couldn't claim this land. Some of them may have already improved the property in the past, so the ten years may have already started.

Please use public funds to maintain public lands. This is an overreach by Portland Parks & Recreation.

Thank you,
Phyllis Boulton
phyllisb@gmail.com

Moore-Love, Karla

From: Betty Bogacz <bdb3000@aol.com>
Sent: Wednesday, March 01, 2017 11:42 AM
To: Council Clerk – Testimony
Subject: "Urgent: Agenda Item 207 and unintended consequences"

Please do not add this language without further consideration. This is much more than a "technical" fix.

This should be covered by the taxes we pay.

Respectfully,

Elizabeth Bogacz
5219 SW View Point Terrace #2
Portland, OR 97239

From: Chris Gardner <cjgardner@mindspring.com>
Sent: Wednesday, March 01, 2017 11:17 AM
To: Council Clerk – Testimony
Cc: CG Home
Subject: Urgent: Agenda Item 207 and unintended consequences

Greetings,

I saw this article on next door and oregonlive.com
http://www.oregonlive.com/politics/index.ssf/2017/03/portland_homeowners_could_have.html

The City of Portland is going way over the line on this one.

The City that Works needs to get to work!

How awful that any city employee would take this stance. They should be fired!
They certainly do not have the best interests of the residents of the city who fund their salaries.
A need such as this must be paid for by all the residents of Portland.

-- Chris

188278

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POLITICS & ELECTIONS

Portland homeowners could have to cut down city's trees

 Posted on March 1, 2017 at 6:30 AM



Portland Parks & Recreation Bureau's Urban Forestry told Rita Snodgrass and Kathleen Ward to cut down two trees near Multnomah Boulevard. (Photo provided by Rita Snodgrass)

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BY JESSICA FLOUM
jfloum@oregonian.com

The Portland City Council is slated to vote Wednesday to approve a tree rule, buried in a series of technical fixes to city code, that would expand Portland property owners' liability for maintaining trees on publicly owned property.

This code change could cost property owners like Kathleen Ward, Rita Snodgrass and their neighbors as much as \$3,500.

Those Southwest Portland homeowners were shocked when they received notices last year from the Portland Parks & Recreation Bureau's Urban Forestry ordering them to remove two trees across a small wooded area, down a slope and more than 50 feet away from their Southwest Portland properties.

Current code requires property owners to take care of dying or dangerous trees on their own property, "any adjacent sidewalks, planting strips and trees fronting or upon such private property."

In what city planners say is merely a technical fix, they asked the City Council to add "adjacent unimproved or partially-improved rights-of-way" to the places where homeowners are on the hook to remove problem trees. That would require owners to remove trees on land they don't own, never use and, potentially, can't access from their properties.

The city office said in the March notice that it would charge Ward and Snodgrass the costs of removing a maple tree and a cherry tree leaning toward Southwest Multnomah Boulevard--on a wide strip of public land beyond their home at the end of a cul-de-sac--if they would not remove the trees themselves. It would also charge them a \$1,000 penalty and place a lien on their property, the notice warned.

The notice said a city tree removal code required them to remove the trees.

"We were pretty stunned," Snodgrass said.

Rita Snodgrass said Portland Parks & Recreation Bureau's Urban Forestry told her to cut down trees about 75 feet from her home. Photo provided by Rita Snodgrass

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The trees are not visible from the couple's yard and, due to a steep dropoff on the publicly owned land, cannot be accessed from their property. They had to travel out of their neighborhood and out onto Multnomah Boulevard "to see what they were talking about," Snodgrass said.

Snodgrass and Ward found out neighbor John Matcovich was also told to remove four trees and neighbor Carl Stroup was told to remove three. The neighbors received a quote from a tree company that said they would have to pay \$3,500, including an \$800 fee to control traffic on the city boulevard and \$300 in fees to the city to turn off a traffic light, according to quote from Evergreen Tree Services.

When Snodgrass and Ward complained to parks bureau workers, officials told them budgetary needs had influenced their decision. Snodgrass said parks officials told her: "Well our budgets have been cut and we just don't have the money to maintain these spaces."

"They're basically foisting this big liability on a small handful of homeowners," Snodgrass said.

Snodgrass and Ward then complained to Portland's Office of the Ombudsman, an independent city office that investigates complaints about the city. Deputy Ombudsman Tony Green spoke to the Urban Forestry department. Officials told Green that the code was on the agency's side and that each neighbor would have to pay \$100 to appeal the decision.

Green said he brought the complaint to the attention of Parks Commissioner Amanda Fritz, who agreed to waive the appeals fees.

Fritz did not respond to a text requesting comment. Her office is closed this week while her staff participates in a diversity workshop in Arizona.

Green says it is not crystal clear whether the city's current code in fact requires some homeowners to remove trees from public property. He wanted an impartial hearings officer to answer that question, he said.

Instead, city officials are pushing a change in the rule that would make it crystal clear that homeowners like Snodgrass do have to pay to care for trees on public right-of-way if that land adjoins their property at any point.

Parks & Recreation Bureau spokesman Mark Ross did not make officials from the parks bureau or Urban Forestry available for comment Tuesday.

City Planner Jeff Caudill said the Bureau of Planning and Sustainability considered the tree code change a technical one because it better aligns Portland property owners' liability for taking care of trees with their liability for maintaining unimproved streets. Those distinct responsibilities are laid out in separate codes with different definitions of key terms.

--Jessica Floum

jfloum@oregonian.com

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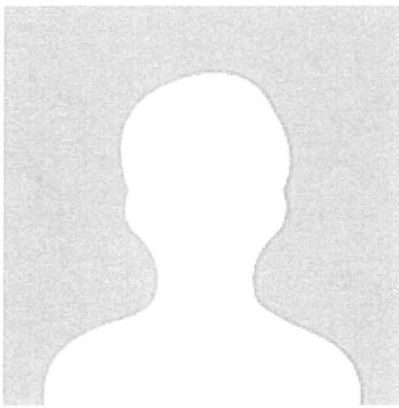
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Moore-Love, Karla

From: kehome@aol.com
Sent: Wednesday, March 01, 2017 11:11 AM
To: Council Clerk – Testimony

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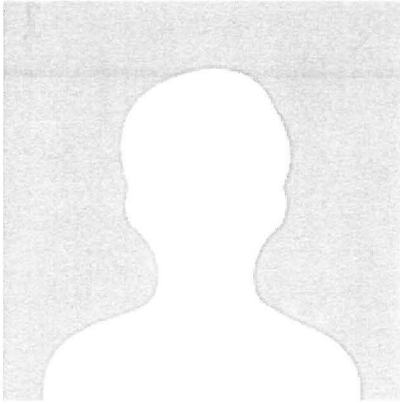
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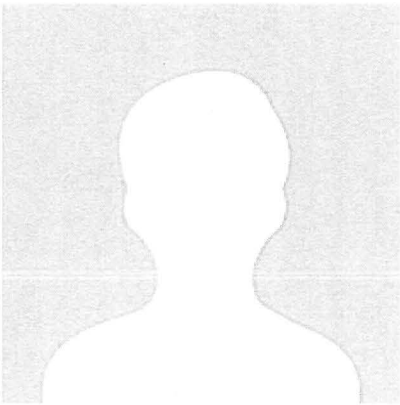
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Sonia replied to the post you thanked "Housekeeper Recommendation?"

22h ago



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Karen replied to the post you thanked "Missing Manx cat - "Penguin!"

3d ago



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Brenda, Alan and 5 others replied to the post you thanked "Reporting"

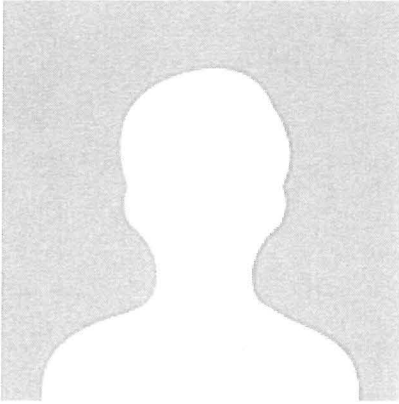
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Lisa replied to the post you thanked "Collins View Neighborhood Meeting March 1"

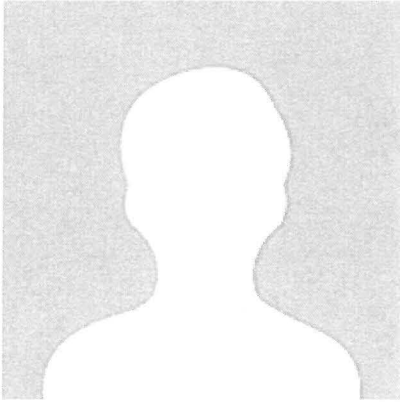
4d ago



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Rachel and Melissa replied to the post you thanked "Looking for a furnished rental ASAP due to family emergency"

4d ago



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Holly, Robin and 5 others replied to the post you thanked "Portland City Water/Sewer"

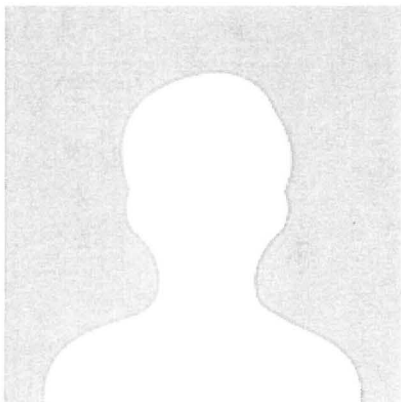
6d ago



o

Rhonda, Ellie and Mira also replied to the post "dog sitter"

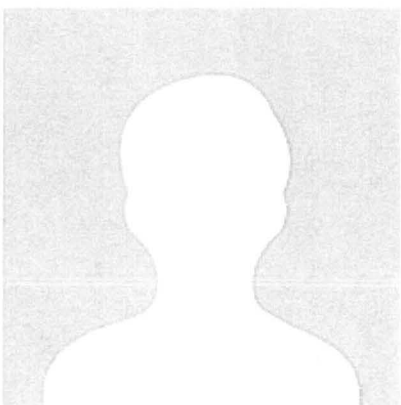
20 Feb



o

Chris replied to the post you thanked "Gutter Cleaning Scam"

17 Feb



o

Laura and Pamela replied to the post you thanked "For all the hummingbird lovers out there!"

17 Feb



o

Andrew, Tobey and Claudia replied to the post you thanked "Do you need an extra set of hands?"

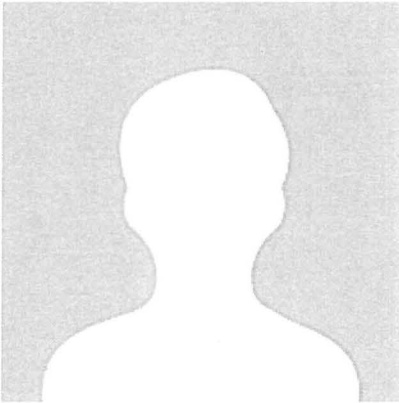
15 Feb



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Kat, Mary and 16 others replied to the post you thanked "Missing Our Kitty REWARD TO HELP FIND"

14 Feb



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Lynda, Drew and 7 others replied to the post you thanked "Politics"

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o

Krista, Jan and 3 others replied to the post you thanked "UPDATE on Macadam Ridge Development off Taylors Ferry"

12 Feb



o

Jennifer, Kendra and 12 others replied to the post you thanked "Trouble with AT&T Wireless"

11 Feb



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Cicily and Tracey replied to the post you thanked "LOST SAMSUNG GALAXY 7 PHONE IN THE VILLAGE"

9 Feb

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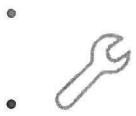
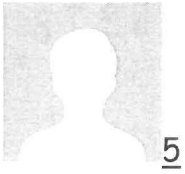
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"PDX Homeowners Could Have to Cut-down City's Trees"

[Stephan Otto](#) from [Collins View](#) · 3h ago

Remember our neighbors' expensive tree predicament that began last year? It just hit the O today with a proposed code change being voted on today (Wednesday) by the Portland City Council.

Right now (& asap) is the time to call the Mayor and Council to voice your opinion on this issue.

503-823-4000

<http://www.oregonlive.com/politics/index...>

[Portland homeowners could have to cut down city's trees](#)

[The Portland City Council is slated to vote Wednesday to approve a tree rule, buried in a series of technical fixes to city code, that would expand Portland property owners' liability for maintaining trees on publicly owned property.](#)

[oregonlive.com](#)

Edited 2h ago · Shared with [Collins View + 11 nearby neighborhoods](#) in General

[Thanked!](#) · [5 Reply](#) · [12](#)

- [reply](#)

- [Private message Stephan](#)

12

You, [Jan](#), [Maryellen](#), and [2 others](#) thanked [Stephan](#)

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•

[Thad Hensleigh](#) from [Collins View](#) · 3h ago

I thought this is why we pay taxes. This is absurd.

[Thank](#)

[Jan](#), [Stephan](#), [Rita](#), and [1 other](#) thanked [Thad](#)

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•

[Stephan Otto](#) from [Collins View](#) · 3h ago

Wholeheartedly agree. On top of all the actual and incidental removal expenses, are they going to make them pay for tree removal permits too?

Edited 3h ago

[Thank](#)

[Jan](#) and [Rita](#) thanked [Stephan](#)

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•

Jan Kuhl-Urbach from Markham · 3h ago

Beat me to it Stephan!

First we have to take care of the miles of unimproved non-maintained roads with hand tools so that emergency vehicles and services can reach us! We have to deal with the ... [View more](#) ravages of unmitigated storm water while densities increase within areas of dilapidated (or absent) infrastructure! We already have to take care of trees in parking strips and now THIS.

What do we pay taxes for? I so wish someone clever would start a class action suit for failure of responsibility to the resident by the City.

I echo Stephan-make you outrage known to Mayor Wheeler and City Council NOW! Don't let Kathleen and Rita stand alone.

Thanked!

You, Stephan, and Rita thanked Jan



•



Edit

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Delete

Ken and Hattie Mead from Collins View · 2h ago

Read the story in the paper today! Totally outrageous! This will really directly affect us homeowners in SW Portland.

Jan and Rita thanked you

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Rita Snodgrass from Lower Multnomah · 2h ago

If you feel so inclined, you can send an e-mail with the subject line "Urgent: Agenda Item 207 and unintended consequences" to cctestimony@portlandoregon.gov asking that they not add this language without further consideration. This is much more than a "technical" fix.

Thanked!

You, Jan, Stephan, and 1 other thanked Rita

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Rita Snodgrass from Lower Multnomah · 2h ago

Thank you for posting this, Stephen. And thanks everyone for your support!

Thank

Jan thanked Rita

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'City Council and Mayor Wheeler:

With great alarm, I have read the Wednesday, 3/1/2017, Oregonian story regarding the rewording of part of the City Tree Code to clarify property owner responsibility toward dead or dying trees.

What is being suggested is not just a "technical fix" as implied, but a further foisting of City responsibility onto its residents. It is a clarification which further seeks to indemnify the City

from taking care of the common areas its taxpaying residents are to a large degree abandoned to try to take of themselves.

We, the people, already have to take care of the miles of unimproved non-maintained roads with hand tools so that emergency vehicles and services can reach us! We have to deal with the ravages of unmitigated storm water while densities increase within areas of dilapidated (or absent) infrastructure! We already have to take care of trees in parking strips and now THIS. These cost shifting tactics are a betrayal of the City's responsibility toward the taxpayers. The costs of taking care of roads, sidewalks, storm drains, trees-smothered through the incompetency's of storm water "management" are cumulative and progressively outstripping any property owners ability to finance. At the very same time you are drowning in a homelessness crisis, your actions threaten the ability for homeowners to stay solvent. Shame on you!

Hattie Mead

Moore-Love, Karla

From: Benjamin Waisanen <waisanen@icloud.com>
Sent: Wednesday, March 01, 2017 10:44 AM
To: Council Clerk – Testimony
Subject: Tree Code – Liability of ROW Trees

To whom it may concern,

The proposed change in the Tree Code, "Liability of ROW Trees" (11.05.110.B Liability) is completely unfair to private property owners. How exactly are we liable for injury and damage resulting from conditions on public property? This is a lawsuit waiting to happen against the city if this code change is approved!

The city will have nothing but my deepest contempt for foisting THEIR responsibility onto individual citizens who may not be able to financially absorb the burden of tree removal demands or reimbursing the city's expenses from legal claims.

Ben Waisanen

http://www.oregonlive.com/politics/index.ssf/2017/03/portland_homeowners_could_have.html

Moore-Love, Karla

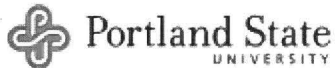
From: Sean Ellefson <scellef@pdx.edu>
Sent: Wednesday, March 01, 2017 10:03 AM
To: Council Clerk – Testimony
Subject: RE: Agenda Item 207 for 1 Mar 2017 Counsel Meeting

To Portland City Counsel,

I vehemently disagree with the recently proposed tree rule which would place unfair and unjust liability on property owners to maintain public property adjacent to their private property or face fines, liens, and ultimately the cost of maintaining that public property. The city should seek to address maintaining public property through a means which does not extort costs from conveniently nearby property owners.

Thank you for your consideration.

--



Sean Ellefson
Linux Systems Administrator - Computer Infrastructure Services
Office of Information Technologies
Portland State University
Phone: 503-725-9157
scellef@pdx.edu

Moore-Love, Karla

From: Mary Ann Schwab <e33maschwab@gmail.com>
Sent: Wednesday, March 01, 2017 10:01 AM
To: Council Clerk – Testimony
Cc: Commissioner Eudaly; Commissioner Fritz; Wheeler, Mayor; Commissioner Saltzman; Commissioner Fish
Subject: Urgent: Agenda Item 207 has unintended consequences

To: The Portland City Council

From: Mary Ann Schwab, Community Advocate

Let me start by saying, I fully support the Multnomah Neighborhood Association request as stated below.

I firmly believe we Portlanders are as strong as our weakest link — these property owners adjacent to designated scenic corridors. Now expanded to required to be held financially responsible for tree maintenance adjacent unimproved or partially-improprpved rights -of-way is unthinkable. Please consider these comments in your consideration of Title 11 amendments today.

The Multnomah Neighborhood Association request that the Title 11 Trees Code be amended to reflect a limit of 15 feet from a property boundary for adjacent property owner responsibility. The Title 11 Trees Code is contradictory and vague in regards to adjacent homeowner responsibility. Putting a specific distance in the code will provide clarity to homeowners and city bureaus, and ensure that no single property owner is saddled with a disproportionately large burden.

Due to its history as a railroad right-of-way, the stretch of Multnomah Blvd. from SW 45th Avenue to SW Garden Home Road has an unusually wide green space between the edge of the road and adjacent properties. It is also a designated scenic corridor and as such, the trees are protected and most construction is prohibited.

Within the boundaries of the Multnomah neighborhood and adjoining Ashcreek and Maplewood neighborhoods, there are properties located above, but not on, this stretch of Multnomah Blvd. Recently, several property owners were issued Title 11 Tree Nuisance notices for trees located 55-65 feet outside of their property lines within this unusually wide green space; the trees were much closer to the road than to the properties in question, and inaccessible from these properties. Holding adjacent property owners responsible along this corridor for the very large city-owned property puts a disproportionate burden on these individual homeowners.*

Mary Ann Schwab, Community Advocate

605 SE 38th Avenue

Portland, Oregon 97215-3202

*Homeowners on the hook for tree removal, Jessica Floum, The Oregonian/Oregon Live, March 1, 2017

Moore-Love, Karla

From: Corinne Louie <louiec@pdx.edu>
Sent: Wednesday, March 01, 2017 9:40 AM
To: Council Clerk – Testimony
Subject: Urgent: Agenda Item 207 and unintended consequences

To whom it may concern:

Please do not add this language without further consideration. This is not constituted as a technical fix.

Sincerely,
Corinne Louie

Moore-Love, Karla

From: Jill Riebesehl <riebes@gmail.com>
Sent: Wednesday, March 01, 2017 9:05 AM
To: Council Clerk – Testimony
Subject: Urgent: Agenda Item 207

What? Property owners would be made financially liable for trees that aren't on their property? On the face of it, reading the story in The Oregonian, that seems flat-out wrong. Am I missing something? Or is this akin to property owners on the east side keeping sidewalks safe for pedestrians? If so, don't sneak it into code without airing the issue. -- Jill Riebesehl

Moore-Love, Karla

From: Janet Kuh-Urbach <jankuhlurbach@gmail.com>
Sent: Wednesday, March 01, 2017 8:54 AM
To: Council Clerk – Testimony
Subject: Urgent: Agenda Item 207 and unintended consequences"

City Council and Mayor Wheeler:

With great alarm, I have read the Wednesday, 3/1/2017, Oregonian story regarding the rewording of part of the City Tree Code to clarify property owner responsibility toward dead or dying trees.

What is being suggested is not just a "technical fix" as implied, but a further foisting of City responsibility onto its residents. It is a clarification which further seeks to indemnify the City from taking care of the common areas its taxpaying residents are to a large degree abandoned to try to take of themselves.

We, the people, already have to take care of the miles of unimproved non-maintained roads with hand tools so that emergency vehicles and services can reach us! We have to deal with the ravages of unmitigated storm water while densities increase within areas of dilapidated (or absent) infrastructure! We already have to take care of trees in parking strips and now THIS. These cost shifting tactics are a betrayal of the City's responsibility toward the taxpayers. The costs of taking care of roads, sidewalks, storm drains, trees-smothered through the incompetencies of storm water "management" are cumulative and progressively outstripping any property owners ability to finance. At the very same time you are drowning in a homelessness crisi, your actions threaten the ability for homeowners to stay solvent. Shame on you!

What do we pay taxes for? I so wish someone clever would start a class action suit for failure of responsibility to the resident by the City.

Do the right thing here and strike your new language.

Jan Kuhl-Urbach, Markham neighborhood

Moore-Love, Karla

From: thadhensleigh@comcast.net
Sent: Wednesday, March 01, 2017 8:33 AM
To: Council Clerk – Testimony
Subject: City Tree Regulation

Dear Councilmen and Councilwomen,
Please vote no todays agenda item 207. This reads "code amendment package 8 technical amendments (Second reading Agenda 170 Amend title 11). This is more than a "Technical Amendment). My understanding of this is that is transfers responsibility of trees located in public right of ways to the adjacent home owners. In the article in todays Oregonian this can include trees that are more than 75' away from property lines. It is absurd to expect property owners to take responsibility for anything other than immediately located street trees (within 5') of property lines were there are sidewalks and a parking strip. Please vote NO or at the least reject for more precise rewording of the amendment.

Best regards,

Thad Hensleigh
127 SW Ridge Drive
Portland OR 97219

Moore-Love, Karla

From: Gilbert Greenwood <gradypup@comcast.net>
Sent: Wednesday, March 01, 2017 8:31 AM
To: Council Clerk – Testimony
Subject: Urgent- Agenda item 207

As a home owner in SW Portland I am outraged that the city wants to change the language on this item , making the home owner responsible for trees on publicly owned lands. The city is not meeting their responsibilities to tax paying property owners already with unimproved roads , pot holes, lighting and crime. It's amazing how the city has money to send staff to work shops out of state but not enough to meet the needs of the property owners who pay them.

Do the right thing and find other ways to deal with the publicly owned tree problem, we are sharing to much of the burden already, enough is enough.

Act now,

Paula Greenwood

Sent from my iPad

Moore-Love, Karla

From: Rita <ritasnod@gmail.com>
Sent: Tuesday, February 28, 2017 6:32 PM
To: Council Clerk – Testimony
Subject: Fwd: Urgent: Agenda Item 207 and Unintended Consequences

----- Forwarded message -----

From: Rita <ritasnod@gmail.com>
Date: Tue, Feb 28, 2017 at 6:25 PM
Subject: Urgent: Agenda Item 207 and Unintended Consequences
To: Amanda@portlandoregon.gov, Nick Fish <nick@portlandoregon.gov>, Chloe@portlandoregon.gov,
dan@portlandoregon.gov, ted.wheeler@portlandoregon.gov
Cc: Kathy Ward <kattward@gmail.com>

Mayor Wheeler, Commissioner Saltzman, Commissioner Fritz, Commissioner Fish, Commissioner Eudaly,

I am writing in regards to agenda item 207, on the Council Agenda for March 1.

The language being added to the Title 11 Trees Code holds the potential to severely impact owners of property situated near large swathes of undeveloped city lands and should not be considered as a “technical amendment”.

Last year, we received a notice that we were required under the Title 11 Trees Code to abate several hazardous trees located along Multnomah blvd. The trees in question were located approximately 60 feet outside of our property line. We argued that the position of these trees, in relation to our property, put them well outside of the definition of adjacent property and street trees, and that the swathe of land in question did not meet the definition of a planting strip as stated in the Title 11 Trees Code. Based upon our appeal, a waiver was granted and the trees were removed by the city.

The language being proposed (underlined below) as a technical amendment in agenda item 207 holds the **potential to greatly, and unfairly, expand financial liability for many homeowners** who live on similar properties located near wide unmanaged green spaces and thus should not be considered as a technical amendment. **This is a huge expansion of Title 11 liability** and should be carefully considered before adoption.

Please ask Urban Forestry to provide an assessment of the impact of this amendment before moving forward. If you do choose to move forward with this amendment, I request that you read into the legislative record that it is only intended to cover “street” trees in the way most people understand that term

Thank You,
 Rita Snodgrass, Kathleen Ward
 7964 SW 4th Ave.
 Title 11 Trees Code Proposed language

“11.05.110 Liability. A. Permits required. Any person pruning, removing, or conducting any other work on any Street Tree or City Tree and any person removing any regulated Private Tree in order to comply with the requirements of this Section, shall first obtain a Type A tree permit in accordance with the provisions of Chapter 11.30. The application fee may be waived when the City forester has directed the work to be done. B. Every property owner shall be liable to persons injured or otherwise damaged by reason of the property owner’s failure to keep his/her private property, any adjacent unimproved or partially-improved rights-of-way, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be

hazardous to public travel. C. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by this Title.

Commentary

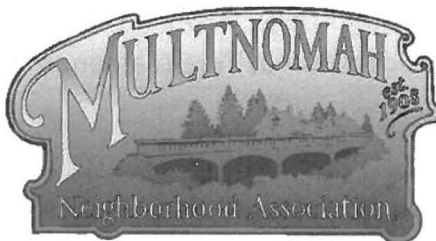
Item 42 – Tree Code – Liability of ROW Trees

11.05.110.B Liability.

The amendment aims to better clarify property owners' responsibility for tree maintenance in adjacent, unimproved, or partially-improved rights-of-way, in addition to sidewalks, planting strips, and on their property. This modification in two sections of the Tree Code (11.05.110 and 11.60.060) will avoid confusion in maintenance responsibilities and liability moving forward."

Moore-Love, Karla

From: martie sucec <martie.sucec@gmail.com>
Sent: Tuesday, February 28, 2017 6:28 PM
To: Council Clerk – Testimony
Cc: Fritz, Amanda; Commissioner Fish; Carol McCarthy; Ellen Gentry and HM; James Peterson; Katherine Christensen; Leslie Hammond; Tad Davis; Rita Snodgrass; Kathy Ward
Subject: Urgent: Agenda Item 207 and unintended consequences



28 February 2017

To: The Portland City Council

From: The Multnomah Neighborhood Association

The Multnomah Neighborhood Association request that the Title 11 Trees Code be amended to reflect a limit of 15 feet from a property boundary for adjacent property owner responsibility. The Title 11 Trees Code is contradictory and vague in regards to adjacent homeowner responsibility. Putting a specific distance in the code will provide clarity to homeowners and city bureaus, and ensure that no single property owner is saddled with a disproportionately large burden.

Due to its history as a railroad right-of-way, the stretch of Multnomah Blvd. from SW 45th Avenue to SW Garden Home Road has an unusually wide green space between the edge of the road and adjacent properties. It is also a designated scenic corridor and as such, the trees are protected and most construction is prohibited.

Within the boundaries of the Multnomah neighborhood and adjoining Ashcreek and Maplewood neighborhoods, there are properties located above, but not on, this stretch of Multnomah Blvd. Recently, several property owners were issued Title 11 Tree Nuisance notices for trees located 55-65 feet outside of their property lines within this unusually wide green space; the trees were much closer to the road than to the properties in question, and inaccessible from these properties. Holding adjacent property owners responsible along this corridor for the very large city-owned property puts a disproportionate burden on these individual homeowners.

Please consider these comments in your consideration of Title 11 amendments tomorrow.

Martie Sucec

Chair

Multnomah Neighborhood Association

To: Portland City Council
From: Gregg S. Everhart, ASLA 
Date: February 14, 2017
Subject: RICAP8 provisions regarding Heritage Trees

Although I am a member of the Urban Forestry Commission and chair its Heritage Tree Committee, I am speaking only as a resident of Sunnyside NA.

I support the code amendments in RICAP8 that would apply the same penalties for damage to or removal of private and public Heritage Trees (HTs). I was not actually aware they were different until private HT#255, *Abies grandis*, the only Grand Fir designated as a HT was cut illegally. The landowners were charged a civil penalty of \$1000 plus a \$250 tree permit violation review fee and required to plant 24" of new trees. Most of the replacement trees were small form deciduous trees that will never provide the environmental benefits of the single lost conifer. If the proposed code amendment had been in place, this 24" dbh tree would have triggered a \$14,700 fee. Although this particular property was purchased for \$1.8 million and the penalty might not have been a significant deterrent, I believe that it will be in other settings.

Historically, HTs have been respected but in this time of rising property values, I share the concern expressed in the letter from the Friends of Overlook Bluff. Please see attached.

Note that nearly half of existing HTs are private trees. When a private tree is designated, the property owner signs an agreement that protects the tree (see attached sample):

"...consent of the property owner shall bind all successors, heirs, and assigns..." "Should you sell the property on which the above tree stands or will it to your heirs, the new owners are likewise bound to its ongoing care... It shall be unlawful for any person to remove or destroy a HT, to injure, misuse or remove any devise set for the protection of any HT ... With the designation of my privately-owned tree comes a commitment to care for it and to report to the City Forester any injury or damage caused by disease or storm"

In the case of these large, old and unique trees, the \$300 and \$600 per inch fees are probably quite low. The International Society of Arboriculture has several ways of appraising the value of individual trees. Urban Forestry lacks funds to appraise each HT but the HTC will be doing additional research and may have more information when fees are reviewed.

Please increase the protection of private HTs so that future property owners continue to protect them.

Friends of Overlook Bluff

July 17, 2016

Mayor Charlie Hales
Commissioner Amanda Fritz
Commissioner Dan Saltzman
Commissioner Nick Fish
Commissioner Steve Novick

Dear Mayor Hales and Commissioners:

Our organization, Friends of Overlook Bluff, was recently shocked by the article "Protected trees can be cut down in Portland – for \$1000," which revealed that the fine for cutting or otherwise damaging a supposedly protected Heritage Tree in Portland was limited to a measly \$1,000. The article, published on July 9 in *The Oregonian/OregonLive*, and another, "Before Heritage Tree illegally cut, Portland couple explored development options" (July 15), confirmed our members' worst nightmare – that the owner or a developer of property in the 3900 block of N. Overlook Terrace could, with impunity, cut down or otherwise damage the stately (and supposedly protected) Oregon White Oak located there (Heritage Tree 259).

There is, effectively **NO real protection for Heritage Trees** in our city if the fine is that low. Nor is there protection if a developer can get away with the same low fee for cutting down a Heritage Tree as any other tree. **These fees and fines are meaningless** in the context of development in Portland. No landowner or developer who wanted to get rid of a Heritage Tree would blink at paying a fine of \$1,000 – the wood in such a tree alone would be worth more than that. And no developer would blink at paying the fees required to cut down any other trees if it meant he could get rid of an impediment to building more houses and making more money. We've been told no reputable arborist would cut down such a tree, but obviously it doesn't take a reliable arborist to fell a Heritage Tree.

You as the City Council have the sole right to approve removal of a Heritage Tree and you must protect that authority. **The fine for cutting down or otherwise damaging a Heritage Tree should be no lower than \$100,000.** If as a city we believe in protecting these trees, we need to do more than make sweet statements about valuing them. We need to shout that damaging these giants is not acceptable!! We need to establish punishment that fits the crime.

You have all heard from Friends of Overlook Bluff before regarding our efforts to save and protect the Heritage Tree on N. Overlook Terrace. Our efforts to establish this parcel of land as a publicly accessible natural area have not yet been successful, and development threatens. FOOB is now focused on protecting this natural setting to the maximum extent possible. To that end, our immediate goal is to protect the tree from any encroachment or damage from development and to ensure that any and all development is appropriate for this valued property. We have committed to holding both the City of Portland and any developers responsible and accountable for adhering to all zoning, permitting, and Heritage Tree protection regulations. **In spite of all the assurances we have been given by City of Portland staff and officials that there actually is protection for the Heritage Trees, it now appears there is effectively none.**

Friends of Overlook Bluff has been focused on protection of the Heritage Tree located on N. Overlook Terrace, but our concern extends to all Heritage Trees in the community. Destroying one not only harms our ecology, but can lead to destruction of all. **It is imperative** that additional protection be enacted **IMMEDIATELY** before irresponsible landowners and developers take advantage of the existing loophole in city codes.

Please take action **NOW!!**

Sincerely,

Chrystal Smith

chrystal-smith@gci.net

503-477-8162;202-360-9589

On behalf of Friends of Overlook Bluff Board of Directors

Chrystal Smith – Chair
Christina Terry – Secretary
Glen Brunton - Treasurer
Andy Harris
Bill Kalapsa
Deborah Kalapsa
Gordon Parks
Whitney Stoffel

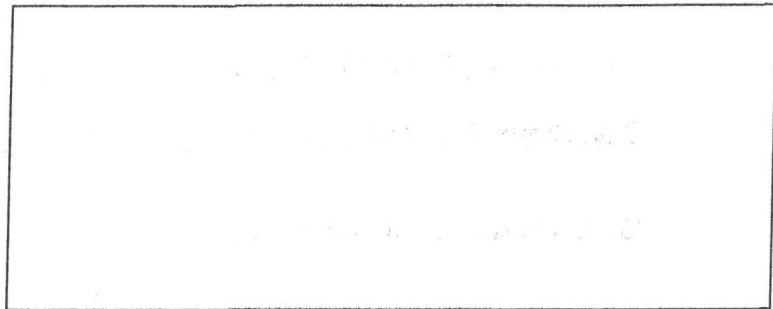
cc: Meryl Redische, Urban Forestry Commission
Brian French, Urban Forestry Commission
Mike Abbate, Portland Parks and Recreation
Jennifer Cairo, City Forester, Portland Parks and Recreation
Natalie Luttrell, Development Services, Urban Forestry, Portland Parks and Recreation
Frank Krawczyk, Tree Inspector, Portland Parks and Recreation
Paul Scarlett, Director, Bureau of Development Services

Susan Anderson, Director, Bureau of Planning and Sustainability
Ted Wheeler, Mayor-Elect, City of Portland
Brad Schmidt, Oregonian/OregonLive
Dannielle Herman, Overlook Neighborhood Association
Scott Fogarty, Friends of Trees
Barbara Quinn, Friends of Baltimore Woods
Nick Hardigg, Audubon Society
Rick McMonagle, East Multnomah Soil and Water District



Healthy Parks, Healthy Portland

After recording return to:
City Nature, Urban Forestry
c/o Angie DiSalvo
10910 N. Denver Ave.
Portland, OR 97217



CONSENT OF THE PROPERTY OWNER TO A HERITAGE TREE DESIGNATION

Robert and Donna Cody
5003 SE 34th Avenue
Portland, OR 97202-4105

As owner of the property on which a Heritage Tree now stands, it shall be my sole responsibility to respect and care for the tree I own. Any advice I may want will be offered at no cost by the City Forester or his designee (503-823-4489). I agree to abide by conditions set forth in the City Code, Section 20.40.150, pertinent excerpts from which are itemized below. The prestige and added value that such a designation brings, in addition to the beauty and the environmental generosity of large trees, has been clearly demonstrated.

A. "The consent of the property owner shall bind all successors, heirs, and assigns." Should you sell the property on which the above tree stands or will it to your heirs, the new owners are likewise bound to its ongoing care.

B. "When a tree is designated a Heritage Tree, a plaque so signifying will be placed on the tree. It shall be the duty of every owner of property upon which a Heritage Tree is standing to maintain that tree." The City Forester is available for assistance to property owners regarding proper maintenance. An annual inspection is made by an appointed City arborist.

C. "It shall be unlawful for any person to remove or destroy a Heritage Tree, to injure, misuse or remove any device set for the protection of any Heritage Tree." Designated trees in the City rights-of-way do not require property owner consent. With the designation of my privately-owned tree comes a commitment to care for it and to report to the City Forester any injury or damage caused by disease or storm.

I, owner of the silver maple (*Acer saccharinum*) tree under consideration for this distinction, hereby consent to its designation as a Heritage Tree by the Urban Forestry Commission of Portland, Oregon.

City Nature - Urban Forestry Program
10910 N. Denver Ave.
Portland, OR 97217
Tel: (503) 823-4489 Fax: (503) 823-4493

Administration
1120 S.W. 5th Ave., Suite 1302
Portland, OR 97204
Tel: (503) 823-7529 Fax: (503) 823-6007



Tree Location:

Address: 5003 SE 34th Avenue

City, State, Zip: Portland, OR 97202-4105

Owner's name (please print):

-

Owner's address (if different from above):

Address _____

City, State, Zip: _____

Legal Description:

GREENWOOD, BLOCK 3, LOT 7&8, in the City of Portland in the County of Multnomah.

Property Owner's Signature:

_____ Date:

_____ Date:

State of OREGON, County of _____

This instrument was acknowledged before me on _____,
20_____

by _____.

NOTARY: STAMP BELOW

Notary Public - State of Oregon