

**SUPPORT
PROPOSAL**

APPEAL OF NOISE VARIANCE TO SON LATINO LLC
AT YOGA UNION 2305 SE 50TH AVE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ MARY SIPE		

Good afternoon, my name is Mary Sipe.

I support Mr. Salzberg's appeal of this Noise Variance Permit.

Apparently Son Latino has been holding these events since May without a Noise Variance Permit. Then when neighbors complained, they applied for a permit for their August, September and October events. Then when they did get a permit, they violated conditions of that permit.

- They did not provide notification to neighbors at least one week prior to the event.
- The sound was audible further than a block away.
- They did not reduce sound levels upon request.

This appeal is a great example of why the current appeal process needs to be revamped. Having appeals presented to City Council is cumbersome and ineffective.

This is a perfect example. The first event occurred on August 19th. Mr. Salzberg filed his appeal on August 22nd. The hearing was placed on the City Council Agenda four weeks later. In the meantime, two more events were scheduled.

Often there is no point in filing an appeal because the event or events have occurred before the hearing can be scheduled for City Council.

Three years ago on July 9, 2015 Paul Van Orden presented several proposals to City Council to amend the Noise Code, Title 18.

One of those proposals was to have appeals of noise variances be brought before the Code Hearings Officer rather than City Council. A Noise Task Force was formed to explore the merits of those proposals. I was appointed to that Noise Task Force by Commissioner Fritz. Unfortunately the Task Force was unable to come to consensus and did not make any further recommendations.

When Mr. Van Orden presented his Noise Office update to City Council last August, the proposal to have appeals heard by the Code Hearings Officer was one of his five priorities, yet it has still not been presented to City Council for consideration.

It is time to stop talking about the much needed revisions and updates to the City's Noise Code and start doing something.

Why did Mr. Salzberg even need to file an appeal?

The Noise Variance Permit states:

"Violation of the conditions of this variance constitutes ground for revocation of the variance..."

Mr. Van Orden has the authority to revoke and/or modify the permit when conditions are violated.

It is my understanding that a citation was issued. That is good, but why wasn't the permit revoked or revised?

This permit is also an example of the concerns I have expressed about the structure of the Noise Variance Fee Schedule.

This permit is for events occurring on 5 Sundays. The fee that was charged was \$205.00 for an accelerated review.

The Noise Office considers this one event but it is actually 5 events.

The way I see it is they should have been charged \$205 for the August 19th event plus \$105 for Sept 2nd, Sept 16th & Sept 30th & Oct 14th...for a total of \$625.

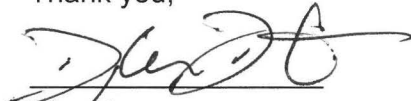
Why are we not charging for every event? Like I said in my testimony a couple of months ago...the more days they make noise the less they pay!!

Dear City Council,

My name is Dylan Dutra and my address is 4917 SE Sherman St.
I would like to appeal the noise variance for rooftop events at Yoga Union, 2350 SE 50th St.

These events are very loud and disruptive to me, and are inappropriate for our residential neighborhood.

Thank you,


Signature

9/16/2018
Date

Dear City Council,

My name is Sam Yamasawa and my address is 4917 SE Sherman St
I would like to appeal the noise variance for rooftop events at Yoga Union, 2350 SE 50th St.

These events are very loud and disruptive to me, and are inappropriate for our residential neighborhood.

Thank you,



Signature

9/10/18

Date

Dear City Council,

My name is Tamiach and my address is 4919 SE Sherman St
I would like to appeal the noise variance for rooftop events at Yoga Union, 2350 SE 50th St.

These events are very loud and disruptive to me, and are inappropriate for our residential neighborhood.

Thank you,

Tamiach
Signature

9/16/2018
Date

Dear City Council,

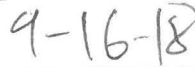
My name is Aaron Green-Mitchell and my address is 4911 SE Sherman
I would like to appeal the noise variance for rooftop events at Yoga Union, 2350 SE 50th St.

These events are very loud and disruptive to me, and are inappropriate for our residential neighborhood.

Thank you,



Signature



Date

IMPACT STATEMENT

Legislation title: Appeal of Ben Salzberg against the noise variance granted to Son Latino LLC to conduct amplified outdoor events on the roof of Yoga Union located at 2305 SE 50th Avenue (Hearing introduced by Auditor Hull Caballero)

Contact name: Toni Anderson

Contact phone: 503 823-4022

Presenter name: Paul Van Orden

Purpose of proposed legislation and background information:

The purpose of this Council item is to provide the appellant and neighbors the opportunity to appeal the City's Noise Control Officer's Noise Variance/Permit#4262813 granted to Son Latino LLC for amplified outdoor events on the roof of Yoga Union located at SE Sherman and SE 50th Avenue. Appeals to City Council of variance decisions may be submitted by the "applicant, their legal representative, any affected neighborhood association or any person who has submitted oral or written testimony on the application" per Portland City Code Subsection 18.14.020 I.1. Per Code Subsection 18.14.020 I.1., the Auditor upon receipt of an appeal shall place the matter on the agenda.

Financial and budgetary impacts:

This Council item will not generate or reduce current or future revenue coming to the City. There are no costs to the City as a result of the Council item.

Community impacts and community involvement:

Public notification of the Son Latino LLC noise variance application was required per the Noise Control Officer's decision. No future public involvement is anticipated or considered necessary for this Council item. After the City Council has made its decision on this appeal, there is no further opportunity for public involvement at the City level.

100% Renewable Goal:

N/A

Budgetary Impact Worksheet**Does this action change appropriations?**

☐ **YES:** Please complete the information below.

X **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

September 19, 2018 – 2:00 PM Time Certain

Appeal of Ben Salzberg against Noise Variance granted to Son Latino to conduct amplified outdoor events on the roof of Yoga Union located at SE Sherman and 50th

Staff Report (Noise Control Officer)	10 minutes (or as needed)
Appellant <ul style="list-style-type: none">• Ben Salzberg	10 minutes
Supporters of Appellant – (from Clerk’s sign-up sheets)	3 minutes each
Principal Opponent of the Appeal <ul style="list-style-type: none">• Applicant - Son Latino Rep	15 minutes
Other Opponents of the Appeal (Supporters of the Noise Control Officer from Clerk’s sign-up sheets)	3 minutes each
Appellant Rebuttal <ul style="list-style-type: none">• Ben Salzberg	5 minutes
Council Discussion as needed	



P O R T L A N D
CITY AUDITOR
Council Clerk
& Contracts

September 10, 2018

Ben Salzberg
4841 SE Sherman St
Portland, Oregon 97215

RE: Appeal of Noise Variance / Permit
Son Latino – Application #4262813

Dear Ben:

This is to confirm the City Auditor's Office is in receipt of your appeal of the noise variance granted to Son Latino LLC. A hearing has been scheduled before City Council on September 19, 2018 at 2:00 p.m. The hearing will take place in Council Chambers located in City Hall, 1221 SW 4th Avenue on the 2nd floor.

If you have any questions, please do not hesitate to contact me at 503-823-4022 or toni.anderson@portlandoregon.gov.

Sincerely,

Toni Anderson
Council Clerk/Contracts Supervisor
Email: toni.anderson@portlandoregon.gov
Phone: 503-823-4022



Anderson, Toni

From: Ben Salzberg <ben@ridemybike.org>
Sent: Wednesday, August 22, 2018 11:29 AM
To: Anderson, Toni
Subject: Appeal for Noise Variance 4262813

Dear Toni,

I'd like to appeal the noise variance filed for Son Latino on the roof of Yoga Union for August 19, September 2, 16, 30, and October 14th for the following reasons:

1) Failure to notify affected residents promptly, per 18.14.020.

Applicant informed neighbors of the event taking place Sunday August 19th event by flyer on Friday August 17th, which happened after city offices were closed for the weekend, leaving no reasonable time for neighborhood input.

2) The owner of the building permit #2012-176292-LU failed to disclose on the initial application that he would be operating amplified outdoor events during evening hours.

When public input was requested during the permit review process, the owner did not disclose that there would be loud events that may affect the residences, which surround the property on all three sides.

3) The Yoga Union rented the space and the sound equipment to a third party and had them apply for a noise variance independently. 18.14.020 says variances are the responsibility of the owner/operator of the sound devices.

4) The events are audible up to three blocks away (e.g. on Lincoln street at 50th) and are intolerably loud on Sherman Street.

This is a residential zone, and therefore should be treated as such. One residence is immediately adjacent to the property. This is not a downtown club zone. This is not a commercial zone.

5) The events are not just occurring on weekend nights; the 10pm end time is too late for people who must be in bed by 8pm.

Last Sunday my partner was still unable to sleep in an insulated basement with closed windows, earplugs and a pillow over her head because of the noise.

6) The Yoga Union is inconsistent with their noise variance applications.

Although there was a variance for the above events, this business is routinely broadcasting amplified events from their rooftop, without any consideration to those around. This was the only time a variance was filed, as far as I know.

I and many of my neighbors are willing to come to a hearing if needed. I have spoken with a number of my neighbors who are fed up with Yoga Union's loud rooftop events. This area specifically has greatly increased its residential density, not its commercial density, therefore this zone should be used for daytime retail business, as the original permit was filed, not regular open-air amplified events.

Sincerely,
Ben Salzberg
4841 SE Sherman St.
Portland OR 97215
503-777-7546 (daytime/work)
503-442-1276 (cellphone)



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

CHLOE EUDALY, COMMISSIONER

Suk Rhee, Bureau Director

Noise Control Program

1221 SW 4th Avenue, Room 110

Portland, Oregon 97204

Promoting a culture of civic engagement

Noise Variance / Permit

Application #: 4262813

Applicant: ROSITSA NIKOLAEVA
2361 NW PETTYGROVE ST., #10
PORTLAND OR 97210

Organization: SON LATINO LLC

Activity: SALSA ON THE ROOFTOP

Event Location: 2305 SE 50TH AVE

Dates: Scheduled Sundays: Aug 19, 2018, Sep 2, 2018, Sep 16, 2018, Sep 30, 2018 and Oct 14, 2018;
(In case of rain, event will take place on the next unscheduled Sunday evening)

Hours: 5:30 p.m. - 10:00 p.m.

Application for the above has been reviewed by the Noise Control Officer, City of Portland, and is hereby:

Approved, with the following conditions:

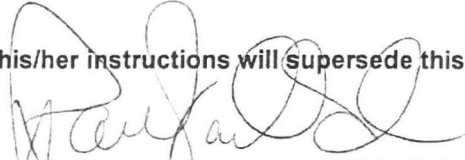
- A. Speakers are to face away from the closest residential locations.
- B. Amplification shall not be audible further than a block from the source of the noise.
- C. Sound levels will be reduced upon request.
- D. Amplification is to cease at 10:00 p.m. SHARP.
- E. Applicant will supply notification of the event all neighbors within a one and a half block radius at least one week prior to the event. Notification will include a phone number that neighbors can call to reach the Applicant to discuss questions before the event and to report concerns of excessive noise during the event. Notice should not simply include the residents who live right on that block, but is intended to reach other neighbors who are impacted by the request for a noise variance.
- F. Applicant will notify the Noise Office at (503) 823-5350 or at noise@portlandoregon.gov of any rain cancellation and alternate Sunday to be used in place of the listed dates.
- G. Applicant will notify the Noise Office at (503) 823-7350 of any complaints they receive. The Applicant will keep a record of how they responded to concerns raised by the community in order to report their actions back to the Noise Control Office.

To the Applicant:

1. Carry this document with you during the activity. This is not a permit to make more noise than is minimally necessary for your needs.
2. Violation of the conditions of this variance constitutes grounds for revocation of the variance, and denial of future applications, and may also result in the issuance of citation(s) for violations of City Code.
3. **If a Police or Noise Control Officer should appear, his/her instructions will supersede this variance and take precedence.**

Date:

August 15, 2018



Paul van Orden, Noise Control Officer

RECEIVED

AUG 10 2018

NOISE CONTROL OFFICE

Noise Variance Application

This is an application for variance from the Portland Noise Ordinance. You should apply for it if your activity will make more noise than the City Code allows. **Please read both sides and fill it out carefully; your application will not be considered unless all information and required site plan is provided and legible.** Use separate pages if necessary. The request may be approved, denied or approved with conditions. Most applications will be reviewed within ten (10) business days; some may require more time. If you need help, you may call the Noise Control Office at 503-823-7350.

APPLICANT INSTRUCTIONS: Complete all sections, and please print legibly.

Applicant name Rositsa Nikolaeva Mobile (503)-757-7796

Address to mail permit 2361 NW Pettygrove St. #10

City Portland State OR Zip Code _____

Email sonlatinopdx@gmail.com

Name of organization or business Son Latino LLC

Name and type of activity Salsa on the Rooftop

Describe specific activities requested for a noise variance music + socializing + dance

Expected attendance 100

Date(s) of activity 8/19, 9/2, 9/16, 9/30 Requested hours, from 5:30 am/pm to 10:00 am/pm it might be an alternate Sunday

Specify location of activity and attach a site plan that identifies streets and identifies residences _____

Yoga Union, 2305 SE 50th Ave.
Portland, OR 97215

Number of neighbors contacted unknown Method of notification letter 2 blocks - radius of event

What, if any, was the reaction to your notification n/a

Name of person and contact number present and in charge of activity

Rositsa Nikolaeva

Signature: [Signature] Date 8/10/2018

***** This permit covers noise only. For information on alcohol, fire, or special events permits, call 503-823-4000



The City of Portland is committed to providing meaningful access. To request translation, interpretation, modifications, accommodations, or other auxiliary aids or services, contact 503-823-4000, Relay: 711.

Traducción o interpretación
Traducere sau interpretare
Tuljumada ama Faslaadda

Chuyển Ngữ hoặc Phiên Dịch
Письмовий або усний переклад
ترجمة شفهية أو مكتوبة

翻譯或傳譯
翻訳または通訳
Tuljumada ama Faslaadda

Письменный или устный перевод
503-823-4000

REVIEW FEES – 10 or more business days prior to date of event

☐ High Noise Impact Events \$465

☐ Noise Review Board Variances & Motor Vehicle Racing

☐ First Year \$3,315

☐ Additional Years \$1,075

8/10 ☒ All Other Applications \$105

ACCELERATED REVIEW FEES – Less than 10 business days prior to the date of the event*

☐ High Noise Impact Events \$930

☐ Noise Review Board Variances & Motor Vehicle Racing

☐ First Year \$6,312

☐ Additional Years \$2,155

☒ All Other Applications \$205

*Variance applications submitted less than 4 business days prior to the date of the noise variance event, shall be charged a review fee equal to 1 ½ times the accelerated review fees listed above.

ADDITIONAL FEES AFTER INITIAL APPROVAL

☐ Scope of Work Revision

☐ All Other Applications \$50

☐ High Noise Impact Events \$100

☐ Noise Review Variances \$525

☐ Date Change Only

☐ All Other Application \$50

☐ High Noise Impact Events \$100

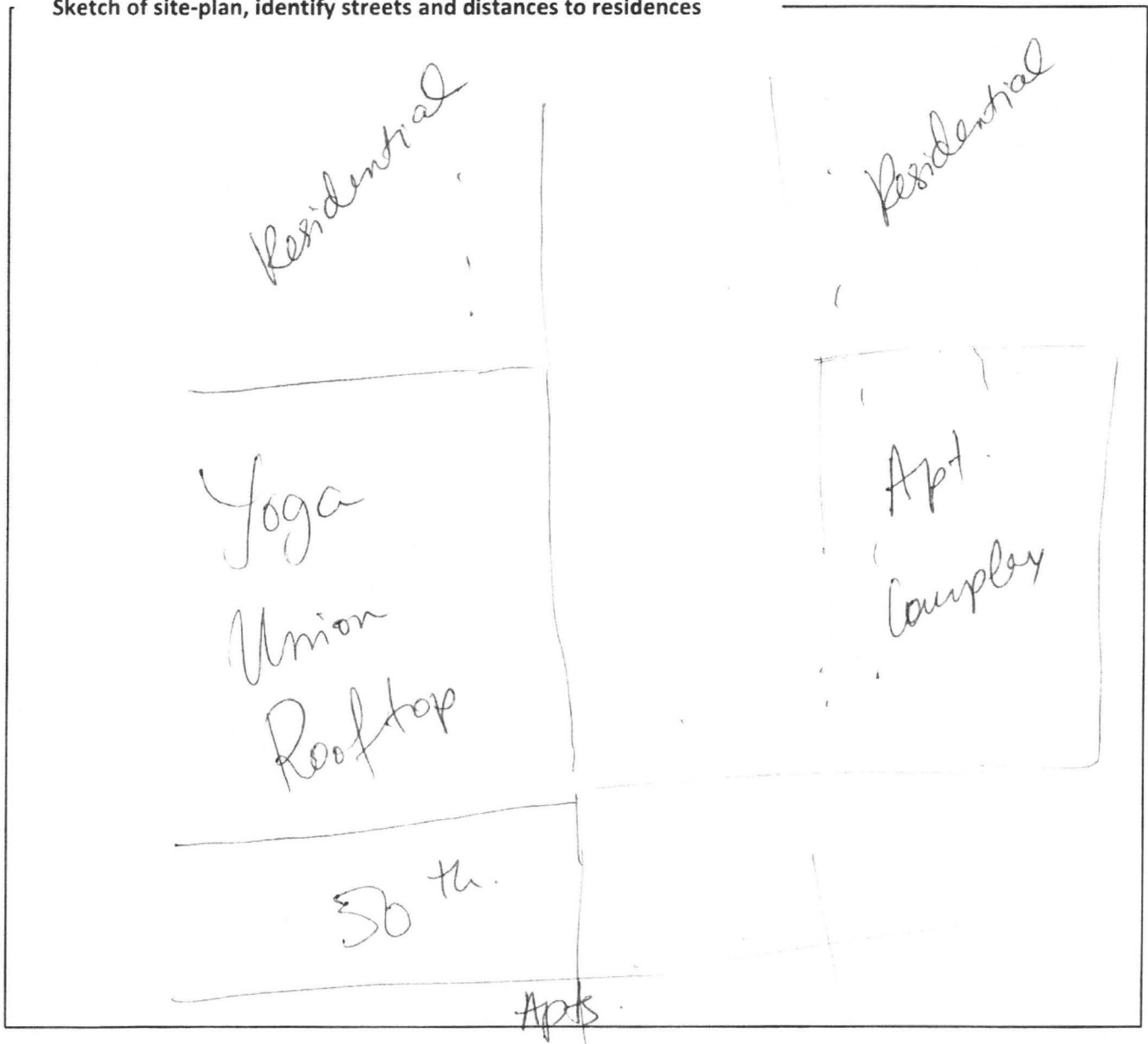
☐ Noise Review Variances \$525

ADDITIONAL FEES FOR APPEALS

☐ Administrative Review Fee \$25

County Recording Fee equal to the cost of recording charges

Sketch of site-plan, identify streets and distances to residences



Please submit completed application and payment to:

City of Portland

1221 SW 4th Avenue Room 110

Portland OR 97204

PUBLIC NOTIFICATION ON CITY NOISE PERMIT REQUEST

Dear neighbors,

My name is Rositsa Nikolaeva and I am part of a group called Son Latino. We are hosting a Salsa event called Salsa on the Rooftop at the Breathe Building, 2305 SE 50th Ave., Portland, OR 97215 with music and dancing on the following dates: 8/19, 9/2, 9/16, 9/30, 10/14 (could potentially switched to the alternate Sundays due to weather).

We have applied to the City of Portland for a Noise Variance Permit for the event at the above location. You have a legal right to comment on our permit request and may offer input or complaints at any point to the City of Portland. If we do not meet the conditions of our permit the City retains the right to revoke our permit. It is our goal to be a good neighbor and to comply with all conditions set by the City's Noise Control Office, 503-823-7350.

The event on the above specified dates will run from 5:30 PM to 10:00 PM.

If you have any questions you can reach Rositsa Nikolaeva before the dates of the events at 503-757-7796.

During our event, please call 503-757-7796 for an immediate response to any of your concerns.

We also would like to extend an invitation to you to attend our 8/19 event free of charge. If you'd like to be added to our guest list, please contact me at the above number before the event date.

If you have questions about the permitting process, or if you have complaints you wish to share with the City, you can contact the City's Noise Control Office at 503-823-7350.

Thank you for your patience, we hope to see you at our performances.

Rositsa Nikolaeva
503-757-7796

I. Appeals to City Council. A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows:

- 1. Eligibility to appeal.** A variance decision may be appealed by the applicant, his legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application.
- 2. Appeal acceptance criteria.** Notice of intent to appeal shall be in writing to the City Auditor's Office within 10 days of the effective date of the decision. The notice shall identify the decision that is being appealed, and include the appellant's name, address, and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including any alleged misapplication of City Codes.
- 3. Upon receipt of such appeal,** the Auditor shall then place the matter upon the Calendar of the City Council.
- 4. At the time of the hearing,** the City Council may consider such new matter as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision

Agenda No.
REPORT
 Title

Appeal of Ben Salzberg against the noise variance granted to Son Latino LLC to conduct amplified outdoor events on the roof of Yoga Union located at 2305 SE 50th Avenue (Hearing introduced by Auditor Hull Caballero)

<p>INTRODUCED BY Commissioner/Auditor: Mary Hull Caballero </p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: Auditor's Office Bureau Head: M. Hull Caballero</p> <p>Prepared by: T. Anderson Date Prepared: 9/10/2018</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan</p> <p>Council Meeting Date 9/19/2018</p>	<p>CLERK USE: DATE FILED <u>SEP 11 2018</u></p> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: Deputy</p> <p>ACTION TAKEN:</p> <p>SEPT 19, 2018 Appeal denied; Noise/Variance Permit amended to delete condition B and amend condition D to change 10:00 p.m. to 9:00 p.m.</p>
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<p style="text-align: center;">AGENDA</p> <p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 pm</p> <p>Total amount of time needed: 1 hr (for presentation, testimony and discussion)</p> <p>CONSENT <input type="checkbox"/></p> <p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th style="width: 35%;">YEAS</th> <th style="width: 35%;">NAYS</th> </tr> <tr> <td>1. Fritz</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>2. Fish</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td></td> <td style="text-align: center;">✓</td> </tr> <tr> <td>Wheeler</td> <td style="text-align: center;">✓</td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz	✓		2. Fish	✓		3. Saltzman	✓		4. Eudaly		✓	Wheeler	✓	
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