

IMPACT STATEMENT

Legislation title: Authorize the Commissioner in Charge of the Police Bureau to Order Content-Neutral Time, Place, and Manner Regulations for Demonstrations Held in the City (Ordinance)

Contact name: Michelle Plambeck

Contact phone: 503-823-4740

Presenter name: Robert Taylor

Purpose of proposed legislation and background information:

There has been an increase in the number of demonstrations resulting in injury to people, property damage, and legitimate safety concerns for the public. The intensity of the demonstrations has also been escalating.

Recent history, and especially the increasingly dangerous and violent events, demonstrates that additional tools are necessary to protect the rights of demonstrators while preserving the peace and preventing violence and property damage.

These frequent and violent demonstrations have also utilized many of the City's available police resources to prevent and address violence. It is imperative that police services be available to other parts of the City.

The purpose of this legislation is to protect and ensure freedom of speech and public safety by enacting reasonable regulations on events where demonstrators and counter-demonstrators have a history of violence that have resulted in injuries to participants, by-standers, or damage to property.

Financial and budgetary impacts:

There are no financial or budget impacts associated with implementing this Ordinance.

Community impacts and community involvement:

Written orders regarding protest safety by the Commissioner in Charge will be released to the public prior to the event(s). The City will take steps to ensure that the public has been provided sufficient notice of any written orders.

100% Renewable Goal:

Approval of the Ordinance does not impact the City's total or renewable energy use.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
- ☒ **NO:** Skip this section

Moore-Love, Karla

From: Taylor, Robert
Sent: Tuesday, November 13, 2018 5:12 PM
To: Moore-Love, Karla; Parsons, Susan
Subject: PPB and City Attorney Responses to Questions from Comm. Eudaly on Protest Safety Ordinance
Attachments: PPB and City Attorney Responses to Questions from Commissioner Eudaly on Protest Safety Ordinance.pdf
Importance: High

Karla and Sue:

Will you please include the attached in the record for the Protest Safety Ordinance (Item 1173) and circulate it to the other Council offices.

Thank you,
Robert

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Protest Ordinance Questions

On Tuesday, November 13, 2019, the Portland Police Bureau (PPB) and the City Attorney's Office provided the following responses to written questions presented by Commissioner Eudaly on Thursday, November 8, 2019. PPB and the City Attorney's Office would like to thank Commissioner Eudaly's office for working with us to help us focus on the questions that were not addressed at the hearing last week.

Past Incidents/ Crowd Management and Use of Force Policies

- 1. Since 2017, PPB has acknowledged the use of at least six different types of "riot control agents and less lethal impact munitions," including pepper spray, rubber ball distraction devices, flash grenades, etc. How much does the Bureau spend on these types of devices?**

PPB makes purchases based on deployment and training needs. We have trained several new officers in the last few years. The Bureau spends roughly \$10,000 a year on these tools. The vast majority of them are used in training and certification (approximately 70%).

Has spending on these devices increased in recent years?

The spending on these tools has been relatively consistent from year to year, except in 2016, when expiration, training and usage resulted in a larger purchase.

- 2. In 1970, the Police Bureau committed to not using violence on non-violent protestors. How many settlements have there been with protestors since then related to excessive use of force by police during demonstrations?**

What is the estimated cost of these suits?

The City Attorney's Office is working with Risk Management to get information regarding the number and amounts of settlements in protest-related cases. Neither the City Attorney's Office nor Risk Management maintain data on settlements back to 1970, and both offices have only begun specifically coding matters as protest-related in the last 5-10 years. Typically, settlement agreements do not admit fault by one party or another so a settlement does not necessarily mean that the force was excessive or that it was not.

- 3. How many pending lawsuits are there against the City from protestors or advocacy organizations for demonstrations between November 2016 and now?**

What is the estimated cost to the City to defend PPB in these lawsuits?

We believe that we answered this at the hearing. If you want more information, please let us know.

- 4. In response to this proposed ordinance, Daryl Turner's recently decried the "over-emphasis on de-escalation and disengagement." Is this view on de-escalation consistent with that of PPB leadership?**

This does not represent the view of Portland Police Bureau leadership. The Police Bureau believes de-escalation is an appropriate tool in crowd management and crowd control, and it is addressed in Directive 635.10 and 1010.00. As Directive 635.10 states if there is an escalation to a civil disturbance we will change our tactics. The time between crowd management and crowd control may not rise to a civil disturbance however, the Bureau may need to use tactics which are not de-escalation in order to achieve certain objectives.

De-escalation and alternatives to force are emphasized in training and policy. Directive 635.10 Crowd Management / Crowd Control summarizes this philosophy clearly with, "The Bureau should employ only objectively reasonable crowd management and/or crowd control tactics with the intent to de-escalate the situation."

- 5. How should we reconcile PPB's stated commitment to de-escalation with the numerous injuries we've witnessed on our streets, of which the most serious appear to be at the hands of the police?**

Please note these injuries include third degree chemical burns, open wounds, and a traumatic brain injury.

The bureau remains committed to re-assessing the tools used during demonstrations. We believe that we otherwise answered this question at the hearing. If you want more information, please let us know.

- 6. Why do the police believe that after they give dispersal orders, people who remain are fair game to be subjected to violence, even though they are not committing any violent act by remaining?**

An order to disperse is not given lightly or when there are lawful protests occurring. These orders weigh the rights of those gathering against the rights and safety of those gathered and others. These orders are based on articulable facts given to the Incident

Commander in consultation with the City Attorney's Office. Please see our response to Question No. 8 regarding specific dispersal orders and the notice provided to the public.

7. What are the conditions that have to be in place for PPB to demand a dispersal order?

The conditions for crowd dispersal are addressed in Directive 635.10(9):

Pursuant to ORS 131.675 (Dispersal of unlawful or riotous assemblages), the Incident Commander may order the crowd dispersed when a demonstration or special event becomes a civil disturbance. Before giving the order to disperse, the Incident Commander must consider whether dispersal unduly endangers the public, police or participants in the crowd. Prior to taking police action to disperse the crowd, and when tactically feasible and time reasonably permits, members shall issue a minimum of two warnings at reasonable intervals to allow the crowd to comply.

8. I've heard feedback that dispersal orders are often contradictory, difficult to understand, or given without enough time for people to respond. What has PPB done to remedy this?

The Police Bureau has acquired specific equipment to make sure the instructions are clear and audible. Dispersal orders are reviewed and authorized by the Incident Commander, and the Incident Commander monitors the number of times and how long the orders are given in accordance with Directive 635.10. Furthermore, when appropriate, the announcements are recorded and the recording is used to repeat announcements. The Incident Commander, whenever feasible, ensures PPB members near the crowd can clearly hear the announcements.

Dispersal orders are specific. For example, PPB used two sound trucks on August 4, 2018, and made announcements including but not limited to the following:

"This is the Portland Police Bureau. To those near SW 2nd Ave and SW Market this is now a civil disturbance. All people must disperse by traveling to the west. You are ordered to disperse immediately. If you fail to adhere to this police order you are subject to arrest or citation and may be subject to riot control agents and impact weapons." This announcement was made multiple times by PPB facing east toward the crowd.

"This is the Portland Police Bureau. To those near SW 2nd Ave and SW Market this is now a civil disturbance. All people must disperse by traveling to the west. You are ordered to disperse immediately. If you fail to adhere to this police order you are subject to arrest or citation. If you fail to adhere to this police order you will be subject to riot control agents and impact weapons." This announcement was made several times by PPB facing north toward the crowd.

"The Police Bureau reminds demonstrators and counter-demonstrators that no assaultive behavior is allowed and that all police orders must be followed. All demonstrators and counter demonstrators must obey all state and local laws."

This announcement was given by PPB from SW Naito and SW Salmon St. facing south toward the crowd from approximately 25 yards two times. This announcement was also given by PPB several times from SW Naito and SW Main St. facing north toward the crowd from approximately 25 yards.

9. From the videos I've seen, it appears that counter-demonstrators are always the ones who are asked to disperse. Is this true?

No. Groups who are committing crimes or other acts of violence have been ordered to disperse based on their behavior. This has included dispersal orders being issued to both demonstrators and counter-demonstrators. For example, publicly available videos from June 30, 2018, show PPB issuing orders for all participants to disperse or move to a specific location.

10. Where is the evidence that the counterdemonstrators threw projectiles at police before the police began using violence in any of the recent demonstrations?

There are ongoing investigations into these allegations. Members of the Rapid Response Team have sustained injuries from objects thrown to include bruising, cuts, and a serious concussion. The injuries sustained by officers during these events have resulted in some officers being taken off active duty, some for significant periods of time. Our officers have also had foreign objects thrown at them causing damage to their uniforms and police equipment.

11. How is it legal to subject everyone in a crowd to chemicals, flash-bang grenades and other dangerous weapons when there is no individualized reasonable suspicion that they are committing crimes, much less violent crimes?

This is a legal question that is dependent on the facts of the situation. As Directive 635.10(9) sets forth:

When the crowd has been ordered to disperse and does not heed repeated warnings, and no reasonable alternative is apparent, riot control agents (RCAs) and/or special impact munitions may be deployed to prevent violence, injury or property damage and to avoid a greater application of force. These weapons shall only be used at the direction of the Crowd Management Incident Commander (CMIC) and when avenues of escape (i.e. clear path or route) are available to the crowd. Pursuant to 635.10 and Directive 1010.00, Use of Force, members must issue warnings prior to deployment. Force shall only be used in accordance with Directive 1010.00, Use of Force.

Additionally, members shall not deploy specialty munitions or aerosol restraints indiscriminately into a crowd. Please see our response to Question No. 8 regarding specific dispersal orders and the notice provided to the public.

12. I've heard PPB leadership describe the tactical challenge of sending in officers to pluck out individuals from rowdy crowds. How do other police departments deal with this issue?

This is a challenge for many law enforcement agencies throughout the U.S. There is not a "one size fits all" answer and depends on the situation. It depends on the crowd demeanor, size and the ability to identify and locate individuals in a dynamic situation. PPB has, when feasible, arrested individuals in this manner. The challenge is that it is not always feasible and increases the likelihood that force will be used.

We have seen groups "un-arrest" people we are trying to take into custody. This challenge and hazard is only exacerbated if officers are in the middle of a semi-cooperative or uncooperative crowd.

13. Have you looked to other police departments for "best practices" for crowd management? Are there any examples of good policing?

The Bureau is consistently looking at best practices both here in the United States and overseas. There are no agreed upon "best practices" nationally as there is no national standard for training in crowd management and crowd control. PPB is working with national organizations to help develop national standards. PPB is actively engaged with several law enforcement agencies around the country in examining this national challenge.

14. My understanding is the Crowd Control Directive excludes officers' right to use violence against people who are not engaged in active resistance. Is this a correct interpretation? If so, how does PPB reconcile this with the many injuries of protestors we've witnessed.

Directive 1010.00, Use of Force, addresses passive resistance in Section 4.1: Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable. Please also see our response to Question No. 8, as it relates to specific dispersal orders and notice to the public.

15. How does having armed and armored police lined up facing a crowd help create a safe space for people to express their First Amendment protected speech? What alternatives have been considered?

The City as the employer has an obligation to provide a safe working environment and protective equipment. The personal protective equipment used by the Rapid Response Team meets this requirement.

There are many events where people have come to express their First Amendment rights where police were not involved or not in full protective equipment. Council testimony on 11/08/18 by members of the public spoke to this. PPB has allowed groups to self-police without a visible presence of police and has used police liaisons to try and communicate with organizers to seek ways to ensure lawful activity. Police responses have been scaled accordingly.

Perceived PPB Bias

- 1. Portlanders have sustained countless injuries at the hands of the Portland Police Bureau. I can't recall of any instances of protestors from Proud Boys or Patriot Prayer being seriously injured by police. Is this accurate? If so, how do you explain this?**

We have arrested individuals associated with Proud Boys or Patriot Prayer, and they have not attempted to run, fight or resist those efforts. Force has been used against these groups by the Portland Police at events when necessary.

- 2. How do you explain the perception, if not reality, that PPB see Patriot Prayer and Proud Boys as "more mainstream" than Portlanders who come to stand up to them?**

PPB does not see any group as "more mainstream." This is a quote that was taken out of context. The phrase was not comparing demonstrators to counter-demonstrators. The quote related to an individual who showed up for the Patriot Prayer rally on June 4, 2017. The PPB officers thought that an elderly man dressed in clothes that gave no indication of his affiliation was a counter-protester gathering at City Hall, when he was, in fact, looking to get into the Patriot Prayer rally. This was an example where the officers explained that the Patriot Prayer protest on that day consisted of both more extreme individuals looking for a fight, and also individuals who were "more mainstream."

PPB respectfully seeks to clarify information presented at Council on Thursday regarding the April 29, 2017, Patriot Prayer protest in the Montavilla neighborhood. It was suggested that Jeremy Christian remained at the event on April 29, 2017, and was then "escorted" down 82nd Avenue by police. In fact, PPB officers from East Precinct noted he was agitated, spewing racist language and armed with a baseball bat. PPB officers seized Mr. Christian's bat almost immediately. Mr. Christian initially tried to enter the area where Patriot Prayer was holding their rally and was refused entry by Patriot Prayer. He was taken to a nearby parking lot for questioning. PPB implored Patriot Prayer to keep their event in the Montavilla Park and in a designated area, however, PPB had no legal authority at the time to compel those actions. When the event

became a march, it was not the PPB's intent to escort the group but rather keep highly emotional protesters and counter-protesters from any form of physical confrontation. PPB initially followed the event in vehicles and only began walking near the groups to offer a presence to mitigate the chances of physical violence. The groups intermingled, while under the careful observation of police, for the duration of the march route. Unfortunately, there was a physical confrontation along the route that led to an arrest. Lastly, at the end of the march, PPB deliberately offered Trimet rides to members of both groups. PPB made sure this was a clearly delivered message and tweeted it out to the public. PPB's goal was to bring this tense encounter to an end for the safety of everyone in the community. No favoritism was given to either group.

- 3. The Mercury recently reported that more PPB officers live in Washington (177) than in Portland proper (158). How can we confidently say this has no bearing on actual or perceived officer biases?**

Portland Police officers take an oath to serve this City and do so consistently on a day to day basis. The location where an officer lives should have no bearing on how they carry out their duty. We have directives speaking to the concern regarding bias.

- 4. Last summer, Portland activists were "kettled" and forced to provide ID. I still do not understand why this happened. Can you help us understand why that happened? Has PPB ever recorded identification information from the Patriot Prayer or Proud Boys groups in this manner?**

This event is currently the subject of federal litigation, and mediation is scheduled in the case. The group was detained based on reasonable suspicion of criminal activity, and their identification was photographed as part of the investigation of that criminal activity. PPB has recorded identification information from members of Patriot Prayer or Proud Boys who have been detained or arrested for engaging in criminal activity.

- 5. Why is it that PPB seems to always be facing counterdemonstrators instead of the far-right paramilitary gangs that come to take over our streets? Has there ever been consideration of how this tactical decision actually empowers the alt-right groups, which makes Portland less safe for all?**

Based on the factors in the crowd additional resources may be needed in certain areas. We understand the perception of bias and we are currently assessing our tactical responses to alleviate concerns of bias in the future without compromising safety.

- 6. What efforts has PPB made to reach out to Portland activists and advocates to discuss policing of protests?**

Efforts have been ongoing for years. The Bureau has spoken with protesters, advocates, and others regarding protests in many different venues. These include one on one,

coffee talks, group settings, and electronic communications. In advance of demonstrations, PPB also tries to communicate with the groups through the use of police liaisons. We will continue these efforts in the future.

- 7. Can the Portland Police Bureau explicitly and unequivocally state that Patriot Prayer, Proud Boys, and similar alt-right, white supremacist gangs are the real threat to our public safety?**

We believe that we answered this at the hearing. If you want more information, please let us know.

- 8. During the August 4 protest, my understanding was there were weapons check-points because of the threat of gun violence. Yet, media reports indicate that the Proud Boys and Patriot Prayer were able to breeze by these check-points. Can you explain what happened? Why was no one arrested?**

We believe that we answered this at the hearing. If you want more information, please let us know.

- 9. Much has been made of the “cache of weapons” that were discovered on the parking garage. Can you explain why no arrests were made in that situation?**

We believe that we answered this at the hearing. If you want more information, please let us know.

- 10. In many of the protests, I’ve witnessed Patriot Prayer and Proud Boys crossing the street and into the side of the road sectioned off for counter-demonstrators while PPB looked on. Why was this allowed to occur?**

Individuals from groups are at times going back and forth from all sides. We attempt to maintain separation once time, place and manner restrictions have been established by police at the event. If no time, place, manner restrictions are in place individuals are welcome to cross the street.

- 11. The Anti-Defamation League’s Center on Extremism has reported that 71 percent of the extremist-related fatalities in the United States between 2008 and 2017 were committed by members of the far right or white-supremacist movements. Why is this, and more local data that we have at our disposal, not enough information to justify “selective enforcement” to address the actual threats to our public safety?**

The Bureau again focuses on individual’s behaviors and actions. We cannot engage in selective enforcement based on people’s exercise of free speech.

Follow-Up from Past Violence

- 1. At this point, we've seen countless videos of Patriot Prayer and Proud Boys violently assaulting Portlanders and can identify them by face if not also by name. Can you detail the steps that PPB has taken to follow-up and arrest these folks?**

We have arrested individuals associated with Patriot Prayer and Proud Boys based on probable cause several times. For example, PPB has arrested or cited Tusitala "Tiny" Toese on three separate occasions for unlawful conduct at demonstrations in Portland, including charges of assault, harassment, and disorderly conduct. PPB does not single out groups based on the content or viewpoint of their speech. PPB focuses its criminal investigations on the unlawful behaviors and conduct of individuals and makes arrests as warranted by that conduct.

- 2. Why are these white supremacist gang members not being prosecuted more harshly?**

This is a question best addressed by the Multnomah County District Attorney's Office, which has the responsibility of prosecuting crimes that occur in the City of Portland.

- 3. It appears to me that the "tool" PPB need is more effective collaboration with the DA's office. Has the Mayor's office or PPB talked to the DA about this? What was the outcome of these discussions?**

The Bureau works collaboratively with the Multnomah County District Attorney's Office and other community partners to address crowd control and crowd management.

Ordinance Questions

- 1. Have other cities with similar Time, Place, Manner (TPM) restrictions been sued for these policies? How much did it cost them to defend these policies in court?**

Many cities use time, place, and manner regulations to manage demonstrations. The most common time, place, and manner regulations are in the form of permitting requirements, but time, place, and manner regulations have also been used in more unique or emergency situations in response to events. Litigation in this area is common, and some cases have been successful, while others have not. We do not know how much it has cost other cities to defend their regulations. Below are some of the cases that we have looked to that have upheld time, place, and manner restrictions most similar to those proposed in the ordinance:

- *Menotti v. City of Seattle* (regulations at 1999 WTO conference in Seattle)
- *Coalition to March on the RNC v. City of St. Paul Minn.* (regulations at 2008 Republican National Convention in St. Paul)

- *Citizens for Peace in Space v. City of Colorado Springs* (regulations at 2003 NATO convention in Colorado Springs)
- *ACLU v. City and County of Denver* (regulations at 2008 Democratic National Convention in Denver)
- *Gibbs v. City of Tacoma* (regulations at 2007 Port of Tacoma demonstration)
- *Marcavage v. City of New York* (regulations at 2004 Republican National Convention)

2. This ordinance is certain to face a legal challenge, what do you anticipate will be the legal costs associated with defending this policy in court?

Legal costs to defend this policy would be absorbed by the existing budget of the City Attorney's Office. In the past the City Attorney's Office has been able to absorb the work of defending the Council's policy decisions in court, although certainly resources are limited and work has to be distributed and prioritized internally when the Office's caseload increases. The time and resources necessary to defend any Council action depends on the claims asserted, parties involved, the length of litigation, and any appeals. Of course, as with many cases and depending on the type of challenge, there is a risk that the City may have to pay the plaintiff's attorneys fees if the City is unsuccessful.

3. If we need to take a legally ambiguous policy to court, why are we saying that this is the legal fight worth having with our limited city resources? Wouldn't it be more responsible to spend our city attorneys' time and public funds pursuing legal strategies to stop the recruitment and mobilization of white supremacist, paramilitary gangs on our streets? Isn't that a more meaningful contribution to our public safety?

The City Council has the responsibility to decide the best policy to advance public safety given the City's limited resources. As amended, the ordinance requires the Office of the City Attorney to report to Council additional legal strategies for addressing these issues. These additional strategies may include civil claims based on paramilitary activity, public nuisance claims based on street fighting, and enforcing permit regulations as in other cities. However, it is important to remember that legal strategies that are aimed at particular groups because of the content of their speech are constitutionally problematic. Consistent with this constitutional concern, Portland Police Bureau Directive 344.05, at Policy Statement 3, prohibits the Police Bureau from making policy decisions based on political ideology or affiliation.

4. Are there any other cities using TPM restrictions as a tool to combat alt-right violence?

Many cities either enforce existing permitting requirements, enact emergency rules or erect fencing around areas to ensure that opposing groups remain separated. For example:

- In Washington, D.C., for the Unite the Right rally and counter-demonstrations this last summer, the parks department issued permits beforehand to make sure both sides had space to protest and remained separated. The police erected fencing around different areas of Lafayette Square.¹
 - Seattle has repeatedly attempted to keep Patriot Prayer separate from counter-demonstrators by using metal barricades and police officers to varying degrees of success.²
 - Berkeley, California, officials issued an emergency order this past summer in response to a rally. The order prohibited sticks, pipes, poles, baseball bats, bricks, rocks, mace, knives, and “anything else that can be used to riot,” and prohibited people from wearing masks. The police also closed off streets³ and attempted to direct protesters into separate areas.⁴
- 5. How exactly does this ordinance lead to less enforcement or less use of police resources? The limits are surely to be tested, so isn’t it possible that this policy will actually lead to more confrontations?**

This ordinance would allow the Police Commissioner to issue written orders in advance designating certain areas for demonstrators and counter-demonstrators to peacefully exercise their First Amendment rights. The Police Commissioner could only use this authority under limited circumstances when: (1) two or more groups with a history of violence between them announce plans to demonstrate on the same day; and (2) there is a threat to the safety of participants and by-standers if time, place, and manner regulations are not imposed; and (3) there is a substantial likelihood of violence based on the statements or conduct of members of the groups indicating an intent to engage in violence, or based on other credible information obtained by law enforcement. All three of these criteria must be met for the Police Commissioner to use the authority under the ordinance.

By issuing written orders in advance, peaceful demonstrators will know and be able to follow the rules to safely exercise their First Amendment rights. This policy assumes most demonstrators and counter-demonstrators are law-abiding and will follow clear rules announced in advance of a demonstration. By designating separate areas for demonstrators and counter-demonstrators, the expectation is that most people will follow the rules, and the

¹ <https://www.nbcwashington.com/news/local/Officials-Across-Region-Prepare-of-Unite-the-Right-Rally-490472501.html>; <https://www.thedailybeast.com/white-nationalists-prepare-to-gather-at-white-house-for-rally>; <https://www.theatlantic.com/politics/archive/2018/08/unite-the-right-fizzles-amid-a-boisterous-counter-protes/567374/>

² <https://www.seattletimes.com/seattle-news/politics/largely-peaceful-dueling-rallies-at-seattle-city-hall-marked-by-lots-of-yelling-3-arrests/>; <https://www.seattletimes.com/seattle-news/politics/5-arrested-as-trump-supporters-counterprotesters-rally-at-uw-in-seattle/>

³ <https://www.mercurynews.com/2018/08/05/berkeley-bracing-for-alt-right-rally-today-antifa-counter-protest/>

⁴ <https://www.sfgate.com/bayarea/article/Berkeley-braces-for-demonstrations-13133346.php>

police can focus their resources on responding to those who do not follow the rules. By separating the groups, the opportunities for violence between them will be reduced, and the police will be able to better plan for the event and manage the different crowds.

In the past, when the demonstrators and counter-demonstrators rally in close proximity, the crowds can be difficult to manage. In this situation, a high volume of police resources are required to physically separate the groups. The chart below shows the police overtime costs for demonstrations over the last three years:

Police Bureau Protest Overtime - does not include straight time, payroll tax or materials expense	Comp Value	OT Paid	Total Amount
083 - DEMONSTRATIONS/STR	\$ 739,574.13	\$ 2,945,327.15	\$ 3,684,901.28
Calendar 2016	\$ 148,767.58	\$ 947,923.74	\$ 1,096,691.32
Calendar 2017	\$ 480,715.10	\$ 1,555,738.30	\$ 2,036,453.40
Calendar 2018	\$ 110,091.45	\$ 441,665.11	\$ 551,756.56
Grand Total	\$ 739,574.13	\$ 2,945,327.15	\$ 3,684,901.28

Additionally, when the groups are in close proximity and engage in violence, it is more likely that the police will need to disperse a crowd and make arrests, which is not the desired outcome. By designating different areas to keep the groups apart, the goal is to reduce the number of events where crowds are dispersed and individuals are arrested.

6. How will the Police Commissioner make determinations that a “group” has committed violent acts in the past?

The Police Commissioner will evaluate whether individuals or groups intending to participate in a specific demonstration or counter-demonstration have engaged in violence at recent protests leading to injuries to participants, by-standers, or damage to property. This evaluation will be based on articulable facts, including observations and investigations by police, eyewitness accounts, or other information gathered by law enforcement before the event. As an important safeguard, the Police Commissioner’s determination must be supported by factual findings recorded in the written order issued before the event. These factual findings in the written order may be reviewed by a court if the order is challenged, and the ordinance also requires the Police Commissioner to report to Council after each event where a written order is issued. This report would also be made to the public under the amendment adopted by Council.

7. How will the Police Commissioner determine who is part of the groups and who is not?

Under the ordinance, the Police Commissioner can issue written orders designating areas for demonstrators and counter-demonstrators to safely protest. People will be free to choose

which area to go to and the Police Commissioner and the police will not determine which group someone belongs to. Instead, each individual can decide where to go to safely exercise their rights. The expectation is that most people will go to the appropriate designated area. If there are any limited confrontations involving individuals who chose to assemble with those with opposing views, then the police can respond to those specific altercations.

8. Will the rules apply to people who are not part of the groups targeted by the rules? What if they are unassociated with either group and have no history of violence, but they are counter-protesting one of the groups?

The written order of the Police Commissioner will direct demonstrators to gather in a particular location, just as would happen if the group had sought and received a permit. The written order would further direct counter-demonstrators to gather in a separate area. Depending on the event, the written order by the Police Commissioner may designate a third area for those individuals who are unaffiliated with either group and do not otherwise wish to participate in either the demonstration or counter-demonstration. This ordinance is intended to provide everyone with the necessary space to demonstrate safely.

9. If a person is already willing to violate criminal laws against assault, are they actually going to follow these rules about when, where and for how long to protest?

Certainly there may be people who come to a demonstration or counter-demonstration with the intent to break the law. The risk to public safety is increased if people with that intent to commit crimes are mixed in a large crowd in close proximity to another large opposing group. Indeed, as was noted in the “After Action Report” discussed in the *Menotti v. City of Seattle* case, “[t]he protestors were establishing a fluid, dynamic method of operation that consisted of rapid deployment and the use of non-criminal protestors to buffer smaller pockets of protestors engaging in significant criminal acts.” *Menotti*, 409 F.3d 1113, 1124 (9th Cir. 2005). In a situation like that it can be challenging for police to identify and respond to individual criminal behavior. However, the goal of the ordinance is to make it easier for police to identify individuals violating the law since demonstrators wishing to follow the rules will assemble in the designated areas. Police can then use their resources to focus on those individuals who may be intent on breaking the law.

10. How exactly can a city official predict a likelihood of violence occurring?

Determining the likelihood of violence will depend on the factual information gathered in advance of the event. This will include past acts of violence at demonstrations and specific statements on social media or other sources indicating an intent to engage in violence. As an important safeguard, the facts demonstrating a substantial likelihood of violence are required to be included in the written order of the Police Commissioner, which could then be reviewed by a court if the order is challenged. Additionally, the ordinance as amended requires the Police Commissioner to report to the Council and the public after each event where written

orders are issued, which provides an opportunity for the Council and the public to evaluate whether the Police Commissioner made the appropriate determination.

11. If the plan is to set up free speech zones, will opposing groups be within line of sight of each other, or is the plan to place them far away from each other?

The ordinance gives the Police Commissioner the ability to direct that demonstrations and counter-demonstrations be moved to locations that do not create a substantial risk to public safety, obstruct or impede traffic, or interfere with emergency services or other planned events. However, the ordinance also expressly limits the Police Commissioner's authority since "[a]ny such redirection shall be to a location that is reasonably close to, sufficiently approximates, or reaches substantially the same audience as the original location." The goal of the ordinance is to ensure that the groups could see and communicate with each other, but to be a sufficient distance apart so the police can safely and effectively manage the opposing large crowds.

12. How exactly can PPB and the Police Commissioner limit the number of people in a group at a march?

The ordinance gives the Police Commissioner the ability to regulate the number of people who "gather or congregate upon public property, public sidewalks, public rights-of-way, and places of public assembly to which the public has access." This aspect of the ordinance is not intended to cap the number of individuals who can engage in First Amendment activity. The intent is to ensure that the designated areas are large enough to accommodate the number of people who plan to assemble to demonstrate and counter-demonstrate. If more people attend than are able to safely gather in the designated areas, PPB will make every effort to identify and direct attendees to overflow areas where people can safely gather to exercise their First Amendment rights.

13. What if a protest organically and quickly comes together in response to current events, will the ordinance apply to those types of events?

The ordinance only applies in limited circumstances when: (1) two or more groups with a history of violence between them announce plans to demonstrate on the same day; and (2) there is a threat to the safety of participants and by-standers if time, place, and manner regulations are not imposed; and (3) there is a substantial likelihood of violence based on the statements or conduct of members of the groups indicating an intent to engage in violence, or based on other credible information obtained by law enforcement. All three criteria must be met. In the situation described by the question, it is unclear if those criteria would be satisfied. For example, if the event comes together quickly and organically then there may not be facts demonstrating a substantial likelihood of violence at the event. Further, if there is only one group that organically and quickly comes together to demonstrate about a current event, the ordinance would not apply. However, Portland Police Bureau Directive 635.10, Section 4.2, may

be applied to a truly spontaneous demonstration, in which case the planning and operations would be entirely within the authority of the Police Bureau.

14. If this is aimed at events that are being planned in advance of their occurrence, how far in advance of the protest will the rules be put out?

The intent of the ordinance is for the Police Commissioner to issue a written order with as much advanced notice as possible. Often, demonstrations and counter-demonstrations are organized with only a few days' or a couple of weeks' notice, so the timing of the Police Commissioner's order would depend upon when police learn of the events. The proposed ordinance would give the City the ability to proactively manage in advance the "flash" demonstrations that are organized with only a few days' notice. The goal is to provide people who want to participate as much notice as possible about the rules issued by the Police Commissioner.

15. If a group disputes the characterization of their members as having a history of violence, how can they challenge that? What if the characterization was false and there wasn't ample time to dispute it?

A group could challenge the characterization through an action in court by seeking an injunction. One important safeguard in the ordinance is the requirement that the Police Commissioner include written findings in the order to provide a record of the factual circumstances that led to the Police Commissioner's conclusions. This written record will allow a court to review the Police Commissioner's decision if it is challenged. Additionally, the requirement that the Police Commissioner report back to Council and the public is intended to ensure that people have the opportunity to discuss the outcomes and express concerns.

16. Could one group's right to protest be endangered by another group showing up at their protests and provoking violent encounters, with the aim of giving the group a "history of violence" (aka a heckler's veto)?

The ordinance is focused only on violent conduct. Moreover, the ordinance does not prohibit any person or group from exercising their First Amendment freedom of speech. Instead, the ordinance authorizes the Police Commissioner to issue reasonable time, place, and manner regulations to manage these events in advance. As the Ninth Circuit Court of Appeals explained in *Menotti v. City of Seattle*, "[T]here is no authority suggesting that protesters have an absolute right to protest at any time and at any place, or in any manner of their choosing..." *Menotti*, 409 F.3d 1113, 1138-39 (2005). In a "Heckler's Veto" situation, the threat of violence by one group results in the other having their First Amendment rights restricted. *Santa Monica Nativity Scenes Comm. v. City of Santa Monica*, 784 F.3d 1286, 1293 (9th Cir. 2015) ("The prototypical heckler's veto case is one in which the government silences *particular* speech or a *particular* speaker 'due to an anticipated disorderly or violent reaction of the audience.'"). The ordinance before Council, however, does not bar any particular group from exercising their First Amendment rights.

Instead, the ordinance allows the Police Commissioner to designate areas for everybody to exercise their First Amendment rights safely without the threat of violence.

Commissioner Fish Amendments to Protest Safety Ordinance

Fish Amendment 1.

NF moved
DS 2nd

Amend Directive (k) on Page 7 as follows:

- k. Within 30 days after each demonstration for which the Commissioner in Charge has issued written orders pursuant to this ordinance, the Commissioner in Charge shall provide a written report to Council and the public describing whether the regulations were effective and the lessons that might be learned for future written orders.

Fish Amendment 2.

NF moved
DS 2nd

Amend Directive (l) on Page 7 as follows:

1. This ordinance shall be in full force and effect through ~~December~~ 31 June 30, 2019, after which the ordinance shall expire unless renewed by the Council.

Fish Amendment 3.

Fish moved
DS 2nd

Add Directive (m) on Page 7 as follows:

1. To allow Council to consider additional tools to address the concerns with demonstrations identified in this ordinance, the Office of the City Attorney is directed to report to Council no later than January 10, 2019, with an evaluation of additional legal options, including under the Oregon Constitution, Article I, Section 27 ("the Military shall be kept in strict subordination to the civil power"), ORS 166.660 (unlawful paramilitary activity), ORS 221.915 (nuisance defined by city ordinance), and any other identified options.

ORDINANCE No. *Failed to Pass*

Authorize the Commissioner in Charge of the Police Bureau to Order Content-Neutral Time, Place, and Manner Regulations for Demonstrations Held in the City (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Freedom of speech and association are among the fundamental rights guaranteed and protected by the United States and Oregon Constitutions. The City Council enthusiastically supports the exercise of these fundamental rights.
2. The law also recognizes the need for reasonable, content-neutral time, place, and manner regulations to ensure that speech and assembly rights can be exercised safely and without significant disruption to the rights of other members of the public.
3. The United States Supreme Court has explained “that even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions ‘are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.’” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)).
4. Applying the Supreme Court standard, the Ninth Circuit Court of Appeals has upheld time, place, and manner regulations for demonstrations. *Menotti v. City of Seattle*, 409 F.3d 1113 (2005). As the Ninth Circuit explained, “No one could seriously dispute that the government has a significant interest in maintaining public order; indeed this is a core duty that the government owes its citizens.” *Id.* at 1131. Further, “once multiple instances of violence erupt, with a breakdown in social order, a city must act vigorously, and more extensively, to restore order for all of its residents and visitors. Adding large numbers of police on the street might be the solution in some cases, but in other cases could lead to more intense violence.” *Id.* at 1137. As the Ninth Circuit reasoned, “we do not think that even the most vital First Amendment expressions ... can be said automatically to overcome the need of a city to maintain order and security for its residents and visitors, in the face of violence.” *Id.* at 1140.
5. Similarly, under the Oregon Constitution’s Article I, Section 8, the Oregon Supreme Court has held that “some burdens on expressive activities are permissible, such as time, place, and manner restrictions.” *State v. Babson*,

355 Or. 383, 326 P.3d 559 (2014) (citing *Outdoor Media Dimensions, Inc. v. Dept. of Transp.*, 340 Or. 275, 286, 289-90 (2006)).

6. In some recent demonstrations, nearly all of the City's available police resources have been needed to prevent and/or address violence and property damage arising from demonstrations. This leaves other parts of the City without adequate police services. Reasonable, content-neutral time, place, and manner regulations protect both the freedom of expression of demonstrators and the rights of others to be safe in the community and access police services.
7. Reasonable, content-neutral time, place, and manner regulations may be particularly necessary in instances where demonstrators and counter-demonstrators seek to use the same, limited public spaces, and have a history of violence against each other.
8. Reasonable, content-neutral time, place, and manner regulations are now necessary because, even with a significant law enforcement presence, the City continues to experience demonstrations resulting in injury to persons, damage to property, and legitimate safety concerns for the public. Further, the potential for violence at these events continues to escalate. The following demonstrates the pattern of escalation, injury and property damage:
 - a. On April 29, 2017, demonstrators held a rally where they gathered in Portland at Montavilla Park and marched to Eastport Plaza via 82nd Avenue. More than 100 demonstrators and counter demonstrators participated in the event. Some demonstrators wore helmets and brought thick wooden sticks. Other weapons observed included a baseball bat and collapsible baton. Several people were arrested.
 - b. On June 4, 2017, a demonstration and counter-demonstrations occurred in downtown Portland. The events occurred at Terry Schrunk Plaza, City Hall and Chapman and Lownsdale Squares. A total of more than 2,000 people participated in the demonstrations. Projectiles were thrown at police by demonstrators, including eggs, fireworks and mortars, soda cans, rocks, an unknown chemical agent, and a metal bar. Weapons confiscated by police included sticks, batons, shields (metal and plastic), knives, brass knuckles, crowbar, wrist rocket, switchblade, reinforced weaponized shields, and other homemade implements. Multiple fights occurred including a report of a large fight involving 50-60 people. Vandalism occurred. One person was injured. An officer was struck in the head with a rock, denting his helmet. Another officer was struck by a brick on his arm. Chapman and Lownsdale Squares were closed. Portland Police Bureau (PPB) declared an unlawful assembly. Multiple people were arrested.

- c. On August 6, 2017, a demonstration and counter-demonstration were held in downtown Portland. The events occurred at Tom McCall Waterfront Park. More than 300 people participated in the demonstrations. Some of the demonstrators engaged in physical altercations including use of pepper spray on each other. Several demonstrators were impacted by the pepper spray. A few people were arrested.
- d. On June 3, 2018, multiple demonstrations occurred in downtown Portland. The events occurred at Terry Schrunk Plaza, Chapman and Lownsdale Squares and the surrounding blocks. More than 300 people participated in the demonstrations. Throughout the events, members of competing groups were observed deploying pepper spray and throwing projectiles, including fireworks, bottles, rocks and ball bearings. Multiple fights and skirmishes broke out, including a physical altercation in which a participant was struck repeatedly with a helmet. Several people went to the hospital and several people were arrested.
- e. On June 30, 2018, multiple demonstrations were held in downtown Portland. Close to 300 people participated in the demonstrations, which included a permitted march. Large scale fights broke out between the competing groups resulting in multiple injuries. Weapons were used by demonstrators and projectiles were thrown at police, including eggs, water bottles, and a wooden dowel. Other projectiles included fireworks, rocks, and construction equipment. Emergency responders provided on-scene medical evaluations to several people and four people were transported to area hospitals by ambulance. One PPB officer was also injured and transported to the hospital as a result of being struck by a projectile. PPB revoked the march permit. Chapman and Lownsdale Squares were closed. PPB declared a riot. Multiple people were arrested.
- f. On August 4, 2018, demonstrators gathered in downtown Portland for a demonstration, counter-demonstration and unpermitted march. The demonstrations and march were held in Tom McCall Waterfront Park and on roadways in the downtown area for approximately eight hours. More than 1,000 people participated in the demonstrations. Due to the size of the crowd and the forecasted major violence gathered in intelligence, PPB expended significant resources to prevent catastrophic injuries. PPB had to redirect most of its resources to the event, which resulted in PPB needing neighboring law enforcement agencies to assist in covering PPB calls for service. PPB had to employ more than 200 officers to the event, not including the other law enforcement agencies who also provided personnel. Prior to the start of the scheduled demonstrations, police contacted four individuals on the top floor of a parking garage. The sergeant involved contacted them and they confirmed they had three rifles and had concealed weapon permits. The

men told the sergeant they were going to stay at the garage and act as a quick extraction team in case any of their group was injured during the demonstration. The men were compliant and allowed the sergeant to inspect the weapons. All three firearms were in cases (one was disassembled) and none were loaded. In consultation with the City Attorney's Office, the sergeant told the men to store the weapons in a locked storage container in the back of the pickup and place the ammo away from the weapons in a different part of the truck. Officers located and seized multiple weapons throughout the demonstrations including rocks, smoke bombs, fireworks and mortars, unknown chemical agents, bottles, items from a slingshot and other projectiles. Multiple participants also came to the event armed with firearms. PPB had to close Naito Parkway for a portion of the event and redirect traffic. Several police vehicles were damaged by counter-demonstrators. Multiple fights and skirmishes broke out. Several people were injured including a reporter who was struck by a demonstrator's projectile (water bottle). PPB declared a civil disturbance. Due to the close proximity of demonstrators and counter-demonstrators and the increasing danger and threat of violence, police used riot control agents and less lethal munitions on the crowd. Several people were arrested.

- g. On October 13, 2018, a group of demonstrators marched to the site of a vigil in downtown Portland and they were met by counter-demonstrators. Earlier in the evening, members of the groups were seen with hard knuckle gloves, knives and firearms. At the vigil, the two groups exchanged taunts and threats. Later in the evening, members of the two groups engaged in a brawl downtown.
- 9. This recent history, and especially the increasingly dangerous and violent events, demonstrates that additional tools are necessary to protect the rights of demonstrators while preserving the peace and preventing violence and property damage. These tools include reasonable, content-neutral time, place, and manner regulations imposed as necessary by written order of the Commissioner in Charge of the Police Bureau (Commissioner in Charge).
- 10. Different demonstrations may require different time, place, and manner regulations. Due to the short notice of demonstrations and the need to quickly prepare for these events, City Council acknowledges that it is not feasible for Council to evaluate appropriately tailored regulations for each event. Therefore, delegation of authority to the Commissioner in Charge to impose reasonable, content-neutral time, place, and manner regulations is necessary and appropriate to timely address emergent situations related to demonstrations within the City.

NOW, THEREFORE, the Council directs:

- a. The Commissioner in Charge, through written orders, is authorized to impose upon planned demonstrations in the City reasonable, content-neutral time, place, and manner regulations prior to the demonstration event. Each written order by the Commissioner in Charge shall make findings demonstrating the necessity for each instance in which time, place, and manner regulations are imposed.
- b. The written orders of the Commissioner in Charge shall be imposed to protect the public's use and enjoyment of public spaces, to coordinate multiple uses of a limited public space, to assure preservation of public and private property, to protect the lives and safety of people in the City, and/or to prevent conduct that is dangerous or unlawful.
- c. Specifically, the Commissioner in Charge is authorized to take action by written order based on the following sufficient or articulable facts or information:
 - 1) When two or more groups have announced plans to demonstrate separately but on the same day, and there is a history of violence between the groups that has led to injuries to participants, by-standers, or damage to property, and
 - 2) The safety of participants or by-standers is being threatened or will be threatened unless the Commissioner in Charge imposes content-neutral time, place, and manner regulations prior to the scheduled demonstration; and
 - 3) There is a substantial likelihood of violence at the planned demonstrations based on statements or conduct by members of one or more demonstrating groups indicating an intent to engage in violence, or based on other credible information obtained by law enforcement in advance of the event.
- d. The Commissioner in Charge, in the interest of the public peace, health, safety or welfare, and in regard to the specific area or areas of the City imperiled by the public danger or emergency, may impose written orders to do any or all of the following:
 - 1) Restrict the time and length of the event or place regulations on the number of participants who may gather or congregate upon public property, public sidewalks, public rights-of-way, and places of public assembly to which the public has access.
 - 2) Restrict or prohibit movement within, around, above, or beneath the area or areas which, in the judgment of the Commissioner in Charge, are imperiled by the public danger or emergency.

- 3) Direct that demonstrations or counter-demonstrations be located or moved to one or more locations within the City so that the demonstrations do not create a substantial risk to public safety, obstruct or impede pedestrian or vehicular traffic, interfere with the movement of police, fire, or emergency services, crosswalk traffic, or otherwise interfere with special events, concerts or other previously scheduled activities. Any such redirection shall be to a location that is reasonably close to, sufficiently approximates, or reaches substantially the same audience as the original location.
 - 4) To address any vantage points the use of which by demonstrators could create a substantial risk to public safety, direct City-partner bureaus in charge of City buildings, properties or facilities, to close or limit access to those properties for the period of time necessary to eliminate any vantage points that could create a substantial risk to public safety.
 - 5) To the fullest extent permitted by law, prohibit weapons in certain locations within the City.
 - 6) The written orders of the Commissioner in Charge shall establish that other alternative regulations were considered and that no other less restrictive means were practicable under the circumstances.
- e. No time, place, or manner regulations regarding a demonstration shall be based on the content of the beliefs expressed or anticipated to be expressed during the event, nor may such regulations favor non-First Amendment activities over First Amendment activities.
 - f. Orders imposed by the Commissioner in Charge will be released to the public prior to the event(s). The City will take steps to ensure that the public has been provided sufficient notice of any orders. PPB is authorized to enforce orders.
 - g. Violation of any orders imposed by the Commissioner in Charge pursuant to this Ordinance may constitute criminal activity under the Oregon Revised Statutes.
 - h. Nothing in this Ordinance authorizes conduct prohibited by other provisions of the Portland City Code or other ordinances and laws of general applicability, including without limitation prohibitions relating to the obstruction of rights-of-way. The authority granted in this Ordinance is in addition to, and in no way restricts, any other authority granted to the City, its officials, and employees under applicable law.
 - i. In the event that the Commissioner in Charge is not available to enact the order in advance of a demonstration, the Mayor or President of the Council, respectively, when not the Commissioner in Charge, has the authority to impose these written orders.

- j. This Ordinance is limited to content-neutral time, place and manner regulations by written order of the Commissioner in Charge in advance of a demonstration. This Ordinance does not affect the City's ability to place other content-neutral time, place and manner regulations as necessary to address issues that arise during the demonstration(s).
- k. Within 30 days after each demonstration for which the Commissioner in Charge has issued written orders pursuant to this ordinance, the Commissioner in Charge shall provide a written report to Council and the public describing whether the regulations were effective and the lessons that might be learned for future written orders.
- l. This ordinance shall be in full force and effect through June 30, 2019, after which the ordinance shall expire unless renewed by the Council.
- m. To allow Council to consider additional tools to address the concerns with demonstrations identified in this ordinance, the Office of the City Attorney is directed to report to Council no later than January 10, 2019, with an evaluation of additional legal options, including under the Oregon Constitution, Article I, Section 27 ("the Military shall be kept in strict subordination to the civil power"), ORS 166.660 (unlawful paramilitary activity), ORS 221.915 (nuisance defined by city ordinance), and any other identified options.

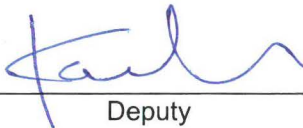
Passed by the Council:

Mayor Ted Wheeler
Prepared by: Robert Taylor
Date Prepared: November 7, 2018

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

Authorize the Commissioner in Charge of the Police Bureau to Order Content-Neutral Time, Place and Manner Regulations for Demonstrations Held in the City (Ordinance)

INTRODUCED BY Commissioner/Auditor: Mayor Ted Wheeler	CLERK USE: DATE FILED <u>11-08-18</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <u></u> Deputy
BUREAU APPROVAL Bureau: Mayor Ted Wheeler Bureau Head: Mayor Ted Wheeler	ACTION TAKEN: NOV 08 2018 PASSED TO SECOND READING NOV 14 2018 As Amended 9:30 A.M. NOV 14 2018 Failed to Pass
Prepared by: Michelle Plambeck Date Prepared: November 8, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date November 8, 2018	

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:15PM Total amount of time needed: 2 hrs 45 min (for presentation, testimony and discussion)	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)	1. Fritz 2. Fish 3. Saltzman 4. Eudaly Wheeler	1. Fritz 2. Fish 3. Saltzman 4. Eudaly Wheeler	YEAS NAYS ✓ ✓ ✓ ✓ ✓