

## **RESOLUTION No. 37514**

Authorize the City Attorney to institute proceedings challenging the Multnomah County District Attorney's ordering the release of public records disclosing the personal cellular phone numbers of City employees when in text message records (Resolution)

WHEREAS, The City of Portland is committed to an open and transparent government, in which all people have access to public documents, and

WHEREAS, The commitment to open government must be balanced with the interest of City employees in retaining their personal cellular numbers as private, and

WHEREAS, The City received a public records request for text message records for text message records showing sender, recipient, and date of text, and these records included City employees' personal cellular numbers, which the City redacted in order to protect this information; and

WHEREAS, The individual requesting the information then appealed to the District Attorney's office and requested the District Attorney to order release of it; and

WHEREAS, The right for employees to retain as private certain information has long been recognized under Oregon law and is currently codified under ORS 192.355(2) and ORS 192.355(3), and

WHEREAS, The Union has demanded that the City not disclose this information as the Union contends it's a change to a past practice that is a mandatory subject for bargaining. Release of this information places the City at risk for an unfair labor practice complaint determination by the Oregon Employment Relations Board, and

WHEREAS, In response to the public records petition for certain text message records of sender, recipient, and date of text, the Multnomah County District Attorney has ordered the City of Portland to disclose the names of employees who are union members, and the disclosure of such information also then discloses the names of employees in the same classification who are fair share, and

NOW, THEREFORE, BE IT RESOLVED, the City Attorney is authorized to institute proceedings in Multnomah County Circuit Court to challenge the District Attorney's Order in the petition regarding the disclosure of text message information showing City employees' personal cellular numbers, or other legal proceedings in other venues, including but not limited to the Oregon Employment Relations Board, that may be appropriate to reach a determination as to any legal issues related to the release of the information, and to pursue to conclusion those proceedings through all level of appeal, and to join all appropriate parties, and, in furtherance or resolution of such proceedings, is authorized to make any stipulation, agreement, or admission as in their judgment may be in the best interest of the City.

Adopted by the Council: October 28, 2020

Commissioner: Mayor Wheeler  
Prepared by: Heidi K. Brown  
Date Prepared: October 20, 2020

**Mary Hull Caballero**  
Auditor of the City of Portland

By *Keelan McClymont*  
Deputy

Agenda No.  
**RESOLUTION NO. 37514**

Title

Authorize the City Attorney to institute proceedings challenging the Multnomah County District Attorney's ordering the release of public records disclosing the personal cellular phone numbers of City employees when in text message records (Resolution)

<p style="text-align: center;"><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Wheeler &amp; Comm. Fritz</b></p>	<p>CLERK USE: DATE FILED <u>October 28, 2020</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p><b>ACTION TAKEN:</b></p>
<p>Mayor—Finance &amp; Administration – Wheeler</p>	
<p>Position 1/Utilities - Fritz</p>	
<p>Position 2/Works - Ryan</p>	
<p>Position 3/Affairs - Hardesty</p>	
<p>Position 4/Safety - Eudaly</p>	
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p>	
<p>Bureau: City Attorney Bureau Head:</p>	
<p>Prepared by: Fallon Niedrist Date Prepared: 10/21/2020</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b> required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, charter, Comp Plan</p>	
<p>Council Meeting Date October 28, 2020</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA		COMMISSIONERS VOTED AS FOLLOWS:	
		YEAS	NAYS
1. Fritz	<small>Tim Crail on behalf of Commissioner Fritz Digitally signed by Tim Crail on behalf of Commissioner Fritz Date: 2020.10.27 17:33:31 -07'00'</small>	✓	
2. Ryan	<small>Kellie Torres Digitally signed by Kellie Torres Date: 2020.10.27 16:06:56 -07'00'</small>	✓	
3. Hardesty	<small><i>[Signature]</i></small>	✓	
4. Eudaly	<small>Jamey Duhamel Digitally signed by Jamey Duhamel Date: 2020.10.26 14:13:38 -07'00'</small>	✓	
Wheeler	<small>Mustafa Washington Digitally signed by Mustafa Washington Date: 2020.10.27 18:06:59 -07'00'</small>	✓	