

RESOLUTION No. 37313

Authorize the City Attorney to appear as *amicus curiae* on behalf of the City of Portland in the case of *Oregon Natural Resources Council Fund v. Port of Portland*, seeking clarity from the Oregon Supreme Court as to state free speech requirements when municipalities are operating in a proprietary capacity administering municipal property. (Resolution)

WHEREAS, The City of Portland owns and administers municipal properties and wishes to ensure they are neutral and welcoming spaces for the public and comply with both the federal and state constitutional free speech provisions, as well as the U.S. Constitution's Establishment Clause prohibiting government advancement of religion; and

WHEREAS, In *Oregon Natural Resources Council Fund v. Port of Portland*, the Oregon Court of Appeals addressed the Port of Portland's policy of prohibiting private parties from advertising religious and political messages to the public at the Portland International Airport; and

WHEREAS, The Port's stated reasons for the policy included: maintaining the facility's neutrality on religious and political issues, avoiding controversial messages that may generate discomfort for the travelling public, and avoiding any potential violations of the U.S. Constitution's Establishment Clause; and

WHEREAS, The Court of Appeals held that the Port's policy violated Article I, Section 8 of the Oregon Constitution; and

WHEREAS, The Port is petitioning for the Oregon Supreme Court to review the Court of Appeals' decision; and


WHEREAS, The outcome of this case could have implications for many municipal proprietary activities, such as the selection and display of art in and on municipal buildings; the sale of advertising to be displayed on municipal property; the use of municipal buildings; and the control of access to and content of proprietary municipal websites and other communications media;

WHEREAS, It is in the public interest for the City to appear as *amicus curiae* to communicate its concerns and the concerns of other municipalities which stand to be affected by the courts' interpretation of Article I, Section 8.

NOW, THEREFORE, BE IT RESOLVED, that the City Attorney or her designee may file or join *amicus* briefs on behalf of the City of Portland, in support of the Port of Portland, in *Oregon Natural Resources Council Fund v. Port of Portland*.

Adopted by the Council: AUG 24 2017

Commissioner: Mayor Wheeler
Prepared by: Denis Vannier
Date Prepared: August 8, 2017

Mary Hull Caballero
Auditor of the City of Portland
By 

Deputy


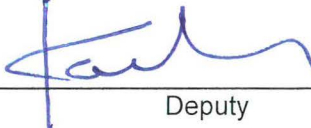

Agenda No.

RESOLUTION NO.





37313

Title

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INTRODUCED BY Commissioner/Auditor: Mayor Wheeler	CLERK USE: DATE FILED <u>AUG 15 2017</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Wheeler 	Mary Hull Caballero Auditor of the City of Portland By:  Deputy ACTION TAKEN:
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL Bureau: City Attorney's Office Bureau Head: Tracy Reeve 	
Prepared by: Denis Vannier Date Prepared: 8/8/17	
Financial Impact Statement & Public Involvement 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 Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date 8/23/17	

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

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Eudaly	4. Eudaly		
Wheeler	Wheeler	