

November 2020 City-Referred Measures

CITY REFERRED MEASURES FOR NOVEMBER 3, 2020 GENERAL ELECTION

[Measure 26-217](#) (Proposed Charter change, Authorizes new, independent police oversight board)

[Measure 26-213](#) (Local option tax levy, Restore recreation programs, parks, nature, water through five-year levy)

[Measure 26-219](#) (Proposed Charter change, Authorizes new Water Fund spending; addresses land use)

MEASURE 26-217 PROPOSED CHARTER CHANGE

Important Documents:

Ballot Title Caption: Amends Charter: Authorizes new, independent community police oversight board.

[Resolution No. 37499](#) As amended

[Proposed Charter Change](#)

[Final Ballot Title](#) (as issued by Mult. Co. Circuit Court Judge Lavin)

[Final Explanatory Statement](#) (as drafted by City of Portland)

Challenge and prior documents:

[Original Ballot Title](#) (drafted by City Attorney's Office)

[Ballot Title Challenge](#) (Received from petitioner Gregory Horner)

Status:

7/29/20: Resolution passed by City Council to refer measure to November 3, 2020 General Election ballot.

7/30/20: Ballot title filed with City Elections Office. [Seven-day ballot title challenge period begins](#). An elector may file a petition for review of the ballot title with the Multnomah County Circuit Court no later than 5:00 p.m. on August 10, 2020.

8/10/20: Elections Office receives [ballot title challenge](#) from registered voter. Schedule of Multnomah County Circuit Court hearing on petition to be determined.

8/31/20: Final stipulated order of [ballot title](#) issued by Multnomah County Circuit Court Judge Lavin to City and [final explanatory statement](#) filed with City Elections Office.

9/1/20: City Elections Office filed measure with Multnomah County Elections Office to appear on Nov. 3, 2020 General Election ballot. County certifies measure to ballot and assigned measure 26-217.

11/3/20: City election held. Voters adopt measure. [See official elections results.](#)

MEASURE 26-213 LOCAL OPTION TAX LEVY

Important Documents:

Ballot Title Caption: Restore recreation programs, parks, nature, water through five-year levy

[Resolution No. 37498](#)

[Ballot Title \(via City Attorney\)](#)

[All Exhibits](#)

Status:

7/22/20: Resolution passed by City Council to refer measure to November 3, 2020 General Election ballot.

7/23/20: Ballot title filed with City Elections office. [Seven-day ballot title challenge period begins.](#) An elector may file a petition for review of the ballot title with the Multnomah County Circuit Court no later than 5:00 p.m. on August 3, 2020.

8/4/20: No challenges to the ballot title were received by the deadline. Notice of [Measure Election](#) filed with Multnomah County Elections to appear on the November 3, 2020 ballot and assigned measure number 26-213.

11/3/20: City election held. Voters adopt levy. [City official elections results.](#)

MEASURE 26-219 PROPOSED CHARTER CHANGE

Important Documents:

Ballot Title Caption: Authorizes new Water Fund spending; addresses land use.

[Resolution No. 37495](#)

[Proposed Charter Change](#)

[Final Ballot Title Order](#) (via Mult. Co.Circuit Court)

[Explanatory Statement](#) (as drafted by City)

Challenge and prior documents:

[Ballot Title](#) (original as drafted by City Attorney)

[Ballot Title Challenge Received](#) (via petitioners Jones, Craford, and Fruits)

Status:

7/22/20: Resolution passed by City Council to refer measure to November 3, 2020 General Election ballot.

7/23/20: Ballot title filed with City Elections office. [Seven-day ballot title challenge period begins](#). An elector may file a petition for review of the ballot title with the Multnomah County Circuit Court no later than 5:00 p.m. on August 3, 2020.

8/4/20: City Elections Office receives [ballot title challenge](#) from registered voters. Schedule of Multnomah County Circuit Court hearing on petition to be determined.

9/1/20: City Elections Office receives final ballot title as ordered by Multnomah County Circuit Court Judge Souede.

9/2/20: City Elections Office receives [explanatory statement](#) from City Attorney and Commissioner Fritz.

9/3/20: City Elections Office files measure to appear on November 3, 2020 General Election ballot with Multnomah County Elections. County certifies measure and [assigns measure 26-219](#).

11/3/20: City election held. Voters reject measure. [See official elections results](#).

Measure 26-217

If passed by voters, this ballot measure would add a section to the City Charter that authorizes the creation of a new police oversight board. The proposed measure sets forth the powers of the new board including the authority, to the full extent of the law, to investigate complaints and to issue disciplinary action against sworn police officers and their supervisors, independence from elected offices and city bureaus, and a budget guarantee to assure resources are available to complete the board's work. The proposed oversight board would also be authorized to directly influence the police bureau's policies and directives.

If passed, the ballot measure would create a framework in the City Charter for the new oversight board. However, the steps below would need to be completed before the board could begin operations.

1. The City Council would adopt an implementing ordinance to create a commission charged with fleshing out the new board's operations.
2. The commission would complete a variety of tasks – after incorporating community feedback and consistent with the framework in the City Charter – including drafting: a) administrative rules for the board; b) an organizational chart for the board; and c) a plan to transition from the City's existing Independent Police Review to the new board.
3. The commission would then summarize its work in a series of proposed City code changes and send those changes to the City Council for adoption. The commission would then be dissolved.
4. The City will comply with any legal requirements it may have.
5. The new police oversight board could begin operations.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

GREGORY HORNER,
Petitioner,

Case No. 20CV27395
The Honorable Andrew Lavin

v.

ORDER

TRACY REEVE, City Attorney for the
City of Portland, a municipal corporation,
Respondent.

This matter came before the Court by briefing of the parties. Petitioner Gregory Horner appeared *pro se*. Respondent appeared by and through its attorney, Caroline Turco. The parties, having conferred and stipulated to the following language, requests the Court sign this Order allowing for such language to be used on the ballot.

Ballot Title

Community Police Oversight Board

CAPTION

Amends Charter: Authorizes new, independent community police oversight board.

QUESTION

Shall Charter be amended to authorize new, independent community police oversight board to investigate complaints against Portland Police, impose discipline?

SUMMARY

The measure adds a Charter section authorizing an independent police oversight board appointed by City Council.

Board Membership:

- Members from diverse communities, particularly those with lived experience of systemic racism and those who have experienced mental illness, addiction, or alcoholism.
- Shall not include current law enforcement employees and immediate family members or former law enforcement employees.
- Board size, members' terms, term limits to be determined by City Code.

Board Budget:

- Shall be no less than 5% of the Police Bureau's operating budget.

1 Board Staff:

- 2 • Board shall appoint a Director who serves at the pleasure of Board and who appoints staff and investigators.

3 Board Powers and Duties:

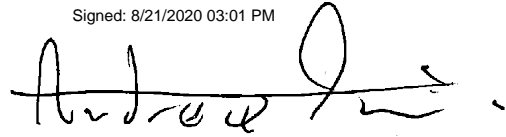
- 4 • Investigate all deaths in custody, uses of deadly force, complaints of force causing injury, discrimination against protected classes, constitutional rights violations
- 5 • Investigate complaints
- 6 • Subpoena documents
- 7 • Access police records
- 8 • Compel witness statements, including from police officers
- 9 • Impose discipline, including termination
- 10 • Recommend policies focused on community concerns to Police Bureau, City Council
- 11 • Powers restricted by State, Federal laws
- 12 • Remove barriers for members' participation

13 Other provisions to be established by City Code.

14 **The Court, having been advised of the positions of the parties, HEREBY ORDERS**

15 **that the parties' proposed language as outlined in this Order may be used on the ballot.**

Signed: 8/21/2020 03:01 PM



16 **Circuit Court Judge Andrew M. Lavin**

17 Presented by:

18 /s/ Caroline Turco

19 Caroline Turco, OSB No. 083813
20 Deputy City Attorney
21 Office of the City Attorney
22 1221 SW 4th Avenue, Suite 430
23 Portland, OR 97204
24 Tele: (503) 823-4047
25
26

1
2 **CERTIFICATE OF SERVICE AND COMPLIANCE WITH UTCR 5.100**

3 I hereby certify that I served the foregoing RESPONDENT CITY OF PORTLAND'S

4 ORDER on:

5 Gregory Horner
6 *weneedainquisitor@protonmail.com*
7 *Pro Se Petitioner*

8 on August 19, 2020, by causing a full, true and correct copy thereof to be delivered by the
9 following method, and there is no objection to this order under UTCR 5.100(1)(b):

- 10 by e-filing using the court's Odyssey File and Serve system.
- 11 by **mail** in a sealed envelope, with postage paid, and deposited with the U.S. Postal
12 Service in Portland, Oregon.
- 13 by **hand delivery**.
- 14 by **facsimile transmission**.
- 15 by **email**.

16 DATED: August 19, 2020

17 Respectfully submitted,

18
19 /s/ Caroline Turco
20 Caroline Turco, OSB No. 083813
21 Deputy City Attorney
22 Email: caroline.turco@portlandoregon.gov
23 Of Attorneys for Respondent
24
25
26

August 9, 2020

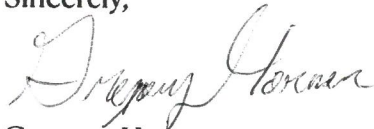
City Attorney Tracy Reeve/*Election Office*
1221 SW 4th Avenue, Room 430
Portland, OR 97204
503-823-4047

AUDITOR 08/11/20 AM10:42

Dear Tracy Reeve,

This letter is your notice a petition for judicial review has been filed against Ballot Title Community Police Oversight Board. The petition has been filed with the Multnomah Court of Appeals Portland Oregon.

Sincerely,



Gregory Horner
503 358 0738

**Ballot Title Judicial Review Petition
for
Proposed Portland Charter Changes
Chapter 2: Government
Article 10: Community Police Oversight Board**

PLD:RTR 08/11/20 09:10:42

Defendants:

City Attorney Tracy Reeve & the City of Portland
1221 SW 4th Avenue, Room 430
Portland, OR 97204
503-823-4047

Petitioner:

Gregory Horner, resident and elector of Portland
7040 SW Terwilliger Blvd
Portland OR 97219
503-358-0738

Introduction

This is a ballot title review petition for a judicial review by the Multnomah Court of Appeals. The City of Portland (City) and City Attorney (Attorney) have failed to properly summarize the recent Charter Amendment referred to voters for the November 3 general election. As such, the petitioner request the Court review the Ballot Title submitted and evaluate it on its conciseness, impartiality, and summation of the major effects of the proposed Charter Amendment.

This petition is filed pursuant of ORS 250.296 Procedure for elector dissatisfied with ballot title of city measure.

A copy of "Exhibit A, Proposed Charter Changes, Chapter 2: Government, Article 10: Community Police Oversight Board," is attached for the Court's review.

A copy of "Exhibit B, Ballot Title Community Police Oversight Board," is attached for the Court's review.

Statement of Facts

On July 29, 2020, the Portland City Council voted on agenda item 633: Refer a Charter Amendment to voters at the November 3, 2020, General Election to authorize a new police oversight system. The resolution was passed as amended with 4 'Aye' votes.

On July 30, 2020, the Ballot Title was filed with City Elections Office and the ballot title challenge period began. The seven-day ballot title challenge period ends August 10, 2020, at 5:00 p.m. pursuant with ORS 250.296.

Ballot Titles must comply with ORS 250.035 Form of ballot titles for state and local measures.

Ballot Titles can be challenged under ORS 250.296 Procedure for elector dissatisfied with ballot title of city measure.

Argument

ORS 250.035 requires the ballot title to be “concise” and “summarize the major effects of the measure.” The Ballot Title in Exhibit B does not properly summarize the major effects of the measure. The Ballot Title incorrectly states the exclusion of certain members of the public from Board membership, omits information on the particular requirements of board membership, and omits information of the Board’s size, term duration, term limits, and goals from the proposed Charter Amendment.

The Ballot Title incorrectly summarizes Section 2-1003 as, “Current, former employees of law enforcement agencies and their immediate family members may not serve on the Board.” While section 2-1003 restricts membership of the Board, it only restricts membership to “[p]eople currently employed by a law enforcement agency and their immediate family members...” The aforementioned section does not limit immediate family members of former employees of law enforcement agencies from joining the Board, it states, “People who were formerly employed by a law enforcement agency are not eligible for service on the Board.” As such, the Ballot Title unfairly summarizes the restrictions of Board membership by informing the voter that immediate family members of former law enforcement agency employees are prohibited from joining the Board. The petitioner is requesting the Court amend the Ballot Title to fairly and properly summarize the membership restrictions within Section 2-1003. Restrictions on Board Membership.

The Ballot Title omits key relevant criteria considered for Board membership of Section 2-1002, Nature of the Board. Specifically, the Ballot Title does not inform the public Board membership will be “particularly those...who have experienced mental illness, addiction, or alcoholism.” The Ballot Title improperly summarizes a Board membership criteria as persons whom have experienced “historic overpolicing.” The proposed Charter Amendment does not specify “historic overpolicing” as a criteria within Section 2-1002. The petitioner is requesting the Court amend the Ballot Title to summarize the “Nature of the Board” by including the focus on persons currently or formally suffering from mental illness, addiction, or alcoholism.

The Ballot Title does not include a stated goal of the Board in Section 2-1007 (C), “One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.” Omitting a summary of this section does not inform the voter that: Board members may be compensated or reimbursed for their efforts during or outside of Board meetings. Or that Board members may request any barrier within their life become business of the Board to enable said member’s participation. The undefined term “barriers” leaves the Board’s duties open to various interpretations and obligations of any Board member. It is

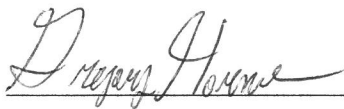
imperative that voters are informed of this stated goal so as to understand the Board is to enable full participate of Board members. The petitioner request the Court amended the Ballot Title to clearly state the goal of the Board to “remove barriers” for its members.

The Ballot Title does not plainly state the Board’s members have no term limits or term durations. The Ballot Title does not plainly state the Board’s membership size is not limited by the Proposed Charter Amendment. The petitioner request the Court amended the Ballot Title to clearly and plainly state the Board is not limited in membership size, term limit, or term duration.

Conclusion

The petitioner is requesting the Court to uphold the requirements of ORS 250.035 for “a concise and impartial statement...summarizing the measure and its major effect.” The City has failed to summarize the major effects of the proposed Charter Amendment. The City has used the Ballot Title to improperly state membership exclusions from the proposed Board. The City has withheld pertinent criteria for membership to the Board by omitting the particular criteria for persons currently or formerly experiencing “mental illness, addiction, or alcoholism” from the Ballot Title. The Ballot Title does not clearly state the Board members’ have no defined term duration or term limit. The Ballot Title does not expressly state the Board must remove barriers for participation by its membership.

If the people are to properly consider a vote for or against the proposed Amendment, then the Ballot Title must contain the major effects and fairly summarize the proposed Charter Amendment Article 10: Community Police Oversight Board. The Court should provide a new ballot title that summarizes the major effects of the proposed Charter Amendment.



Gregory Horner,
Petitioner, resident and elector of Portland

EXHIBIT B**Ballot Title****Community Police Oversight Board****CAPTION**

Amends Charter: Authorizes new, independent community police oversight board. (9)

QUESTION

Shall Charter be amended to authorize new, independent community police oversight board to investigate complaints against Portland Police, impose discipline? (20)

SUMMARY

The measure adds a new Charter section authorizing an independent body to: investigate complaints against police employees; investigate all deaths in custody, uses of deadly force, complaints of force that result in injury, discrimination against protected classes, violations of constitutional rights; impose discipline deemed appropriate by the Board; recommend policy focused on community concerns to the Police Bureau and City Council. Board members appointed by approval of City Council. Board membership shall include representation from diverse communities, including those who have experienced systemic racism and historic overpolicing. Current, former employees of law enforcement agencies and their immediate family members may not serve on the Board. The Board's funding shall be no less than 5% of the Police Bureau's annual operational budget. The Board shall appoint a Director who serves at the pleasure of the Board and who will, in turn, appoint staff and investigators.

Board powers include:

- Investigate complaints
- Subpoena documents
- Access police records
- Compel witness statements, including from police officers
- Impose discipline, including termination

Other provisions to be established by City Code. (175)

EXHIBIT A**Proposed Charter Changes****PREAMBLE****Chapter 2: Government****Article 10: Community Police Oversight Board**

Section 2-1001. City of Portland Community Police Oversight Board. A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002. Nature of the Board. Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003. Restrictions on Board Membership. People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004. Budget of the Board Funding for the Board shall be proportional to be no less than 5% of the Police Bureau's Annual Operational Budget.

Section 2-1005. Professional Staff of the Board The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006. Independent Authority The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007. Powers of the Board

- (A) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.
- (B) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.
- (C) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.
- (D) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008. Duties of the Board. The board shall have the authority to investigate certain Police actions, including but not limited to;

- (A) All deaths in custody and uses of deadly force.
- (B) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- (C) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009. Severability. For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

EXHIBIT A**Proposed Charter Changes****PREAMBLE****Chapter 2: Government****Article 10: Community Police Oversight Board**

Section 2-1001. City of Portland Community Police Oversight Board. A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002. Nature of the Board. Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003. Restrictions on Board Membership. People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004. Budget of the Board Funding for the Board shall be proportional to be no less than 5% of the Police Bureau's Annual Operational Budget.

Section 2-1005. Professional Staff of the Board The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006. Independent Authority The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007. Powers of the Board

- (A) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.
- (B) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.
- (C) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.
- (D) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008. Duties of the Board. The board shall have the authority to investigate certain Police actions, including but not limited to;

- (A) All deaths in custody and uses of deadly force.
- (B) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- (C) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009. Severability. For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

EXHIBIT B**Ballot Title****Community Police Oversight Board****CAPTION**

Amends Charter: Authorizes new, independent community police oversight board. (9)

QUESTION

Shall Charter be amended to authorize new, independent community police oversight board to investigate complaints against Portland Police, impose discipline? (20)

SUMMARY

The measure adds a new Charter section authorizing an independent body to: investigate complaints against police employees; investigate all deaths in custody, uses of deadly force, complaints of force that result in injury, discrimination against protected classes, violations of constitutional rights; impose discipline deemed appropriate by the Board; recommend policy focused on community concerns to the Police Bureau and City Council. Board members appointed by approval of City Council. Board membership shall include representation from diverse communities, including those who have experienced systemic racism and historic overpolicing. Current, former employees of law enforcement agencies and their immediate family members may not serve on the Board. The Board's funding shall be no less than 5% of the Police Bureau's annual operational budget. The Board shall appoint a Director who serves at the pleasure of the Board and who will, in turn, appoint staff and investigators.

Board powers include:

- Investigate complaints
- Subpoena documents
- Access police records
- Compel witness statements, including from police officers
- Impose discipline, including termination

Other provisions to be established by City Code. (175)

RESOLUTION No. **37499 As Amended**

Refer a Charter Amendment to voters at the November 3, 2020 General Election to authorize a new police oversight system. (Resolution)

WHEREAS, the cry for and community interest in independent police accountability has never been more clearly heard than in the past 60 days of protesting; and

WHEREAS, we have a historic opportunity to reject violence and discrimination in policing through a transparent, empowered and independent police oversight system; and

WHEREAS, the mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns; and

WHEREAS, the communities most impacted by disproportionate policing and systemic racism, and those who have experienced mental illness, addiction, or alcoholism, have oftentimes been excluded from the systems designed to hold police accountable and it is of critical importance that this new system put the voices of these communities at the forefront, and current and former law enforcement officers have historically been overrepresented on these boards; and

WHEREAS, to conduct the critically important work of this Board a mandatory floor for its budget is essential to ensure it can successfully execute its mission; and

WHEREAS, the ability to exercise independent judgment from other city government bureaus and elected officials is essential to the fairness and objectivity of the Board's proceedings; and

WHEREAS, the parameters of this Board's authority will remedy past police oversight systems' work that has been impacted by an inadequate ability to collect evidence, interview witnesses, effect police policies and directives, and include sufficient transparency; and

WHEREAS, certain actions of sworn members of the Portland Police Bureau and their supervisors are of paramount importance and concern to the community. Furthermore, many of the most harmful actions by police have disproportionately impacted some communities more than others. Thus it is critical that the Board is tasked with investigating and reviewing actions involving deadly force, bias, violations of federal and state constitutional rights, complaints of force that result in injury, and other matters the Board deems of great consequence for them to investigate.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council will submit a Measure for an Act creating Section 2-1000 of the City Charter to authorize a new police accountability system in accordance with language in Exhibit A, to the voters of the City of Portland in Multnomah County, Clackamas County and Washington County at the November 3, 2020 General Election; and

BE IT FURTHER RESOLVED THAT the City Council submits the ballot title contained in Exhibit B, consisting of a caption, question and summary, to be contained in the November 3, 2020 General Election Ballot; and

BE IT FURTHER RESOLVED THAT the City Council directs the Auditor to publish the ballot title as shown in Exhibit B in accordance with City Code; and

BE IT FURTHER RESOLVED THAT the sponsoring elected officials may submit an explanatory statement to the City Auditor for publication in the voters pamphlet; and

BE IT FURTHER RESOLVED THAT the City Auditor is directed to forward to the County Elections Office all material necessary to place this measure on the November 3, 2020 Election Ballot.

Adopted by the Council: **July 29, 2020**

Commissioner: Jo Ann Hardesty

Prepared by: D. Bradley

Date Prepared: 7/29/2020

Mary Hull Caballero

Auditor of the City of Portland

By *CPhillips*

Deputy

Notice of Receipt of Ballot Title (7/30/20)

NOTICE OF RECEIPT OF BALLOT TITLE

Notice is hereby given that a ballot title for a measure referred by the Portland City Council to qualified voters at the November 3, 2020 General Election has been filed with the Elections Office of the City of Portland on July 30, 2020.

An elector may file a petition for review of this ballot title in the Multnomah County Circuit Court no later than 5:00 P.M., August 10, 2020.

The ballot title is as follows:

BALLOT TITLE

Caption:

Amends Charter: Authorizes new, independent community police oversight board.

Question:

Shall Charter be amended to authorize new, independent community policy oversight board to investigate complaints against Portland Police, impose discipline?

Summary:

The measure adds a new Charter section authorizing an independent body to: investigate complaints against police employees; investigate all deaths in custody, uses of deadly force, complaints of force that result in injury, discrimination against protected classes, violations of constitutional rights; impose discipline deemed appropriate by the Board; recommend policy focused on community concerns to the Police Bureau and City Council. Board members appointed by approval of City Council. Board membership shall include representation from diverse communities, including those who have experienced systemic racism and historic overpolicing. Current, former employees of law enforcement agencies and their immediate family members may not serve on the Board. The Board's funding shall be no less than 5% of the Police Bureau's annual operational budget. The Board shall appoint a

Director who serves at the pleasure of the Board and who will, in turn, appoint staff and investigators.

Board powers include:

- Investigate complaints
- Subpoena documents
- Access police records
- Compel witness statements, including from police officers
- Impose discipline, including termination

Other provisions to be established by City Code.



P O R T L A N D
CITY AUDITOR
Elections

REPORT TO COUNCIL

DATE: December 2, 2020

TO: City Council

FROM: Auditor Mary Hull Caballero

SUBJECT: Certify results of November 3, 2020 Municipal Non-Partisan General Election, candidates elected, and proclaim measures approved (Report)

Tim Scott, Director of Elections for Multnomah County, has filed in the Office of the City Auditor the abstract of votes cast at the Municipal Non-Partisan General Election held in the City of Portland on November 3, 2020 for City of Portland candidates and measures as follows:

CANDIDATES

Two candidates appeared on the ballot for a run-off election for offices of Mayor and Commissioner, Position No. 4.

| Mayor | Multnomah | Clackamas | Washington | Total | % |
|--------------------|------------------|------------------|-------------------|----------------|---------------|
| Ted Wheeler | 166,543 | 265 | 452 | 167,260 | 46.07 |
| Sarah Iannarone | 147,437 | 152 | 375 | 147,964 | 40.76 |
| Write-In | 47,703 | 57 | 72 | 47,832 | 13.17 |
| TOTAL | 361,683 | 474 | 899 | 363,056 | 100.00 |

| Commissioner Pos. 4 | Multnomah | Clackamas | Washington | Total | % |
|----------------------------|------------------|------------------|-------------------|----------------|---------------|
| Mingus Mapps | 186,700 | 288 | 398 | 187,386 | 55.59 |
| Chloe Eudaly | 145,909 | 99 | 391 | 146,399 | 43.43 |
| Write-In | 3,252 | 13 | 11 | 3,276 | 0.97 |
| TOTAL | 335,861 | 400 | 800 | 337,061 | 100.00 |

Per City Code Section 2.08.040, Ted Wheeler has been re-elected to the office of Mayor and Mingus Mapps has been elected to Commissioner, Position No. 4.



MEASURES

Two measures, qualifying for the ballot by City-Council referral, were approved as follows:

Measure 26-213

Ballot title caption: Restore recreation programs, parks, nature, water through five-year levy.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 234,942 | 226 | 547 | 235,715 | 63.94 |
| No | 132,315 | 285 | 358 | 132,958 | 36.06 |
| TOTAL | 367,257 | 511 | 905 | 368,673 | 100.00 |

Measure 26-217

Ballot title caption: Amends Charter: Authorizes new, independent community police oversight board.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 300,486 | 314 | 727 | 301,527 | 81.58 |
| No | 67,713 | 192 | 183 | 68,088 | 18.42 |
| TOTAL | 368,199 | 506 | 910 | 369,615 | 100.00 |

One measure, qualifying to the ballot by City-Council referral was rejected as follows:

Measure 26-219

Ballot title caption: Amends Charter: Authorizes new Water Fund spending; addresses land use.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 165,868 | 151 | 418 | 166,437 | 47.76 |
| No | 181,323 | 326 | 409 | 182,058 | 52.24 |
| TOTAL | 347,191 | 477 | 827 | 348,495 | 100.00 |

REGISTERED VOTERS

According to data available from all three counties at the time of certification, the number of total registered voters in the City of Portland on November 3, 2020 was 463,900.

Measure 26-213

RESOLUTION No. 37498

Refer to the voters a five-year local option tax levy for the November 3, 2020 General Election to restore recreation programs and protect parks and natural areas (Resolution)

WHEREAS, Portland's parks, natural areas, trees, and recreational opportunities improve public health, add beauty to our city, are essential public assets, and connect people to place, nature, self, and community; and

WHEREAS, the City of Portland's park system, which is managed by Portland Parks & Recreation (PP&R), includes 11,712 total acres, 8,000 acres of which are natural areas, across 5 watersheds, over 300 park properties 14 community and art centers, 13 community pools, 1.2 million trees, and more, together serving Portlanders across the city; and

WHEREAS, Portland's residents treasure and care for this legacy, and value equitable access for all Portlanders; and

WHEREAS, in November 2019, Portland City Council held a Sustainable Future work session where PP&R shared their research into the financial trajectory of the bureau and outlined service level scenarios and potential sources for additional funding; and

WHEREAS, PP&R is not appropriately funded to deliver the service levels that the community and City Council have called for, and the bureau's reliance on fees for program and service delivery is inequitable and causes a structural funding issue that has caused service level cuts for several consecutive years, and would continue to lead to cuts in future budget years; and

WHEREAS, the COVID-19 pandemic has highlighted this structural funding issue, with many recreation facilities and programs closed and PP&R team members losing their jobs; and

WHEREAS, COVID-19 has also highlighted the importance of parks and natural areas as essential community assets; and

WHEREAS, a five-year levy would help PP&R meet service level goals, community and Council expectations, and budget needs to prevent additional closures and layoffs; and

WHEREAS, equity is achieved when one's identity cannot predict the outcome, and today's park system is inequitable in its distribution of parks, playgrounds, tree canopy, and more; and

WHEREAS, the levy would better enable PP&R to center equity in their work and delivery of services; and

WHEREAS, cost is also an inequity and barrier to program access for 20% of Portlanders, but it is a larger barrier for Portlanders of color (25%), and East Portland residents (28%), and so long as PP&R relies on user fees to deliver programs, cost will continue to be a barrier; and

WHEREAS, with facilities and programs closed since early March due to COVID-19, PP&R has missed months of needed revenues that fund staff and operations in the Recreation Division, meaning that the bureau would be unable to offer recreation programming in the summer of 2021; and

WHEREAS, the levy would allow PP&R to restart recreation programming, end reliance on user fees to deliver programming, and center equity and affordability as outcomes; and

WHEREAS, safety was a barrier to park visitation for 30% of all Portlanders, but was a barrier to park visitation for 37% of Portlanders of color, and 45% of East Portland residents; and

WHEREAS, the levy would keep parks and restrooms cleaner and safer for all Portlanders, improving service in existing parks and ensuring new parks funded through System Development Charges and other non-levy sources receive appropriate service levels; and

WHEREAS, Portlanders value trees, and trees provide essential benefits by improving air quality, reducing heat island effects, decreasing heating and cooling costs, sequestering carbon, increasing property values, and more, but today, the benefits of our urban tree canopy are not equally distributed; and

WHEREAS, Portland's 8,000 acres of natural areas need additional resources to preserve habitat, improve water quality, and protect from invasive species; and

WHEREAS, the levy would provide resources to protect natural areas, improve the health and equitable distribution of our tree canopy, enable PP&R to proactively maintain existing park trees, and plant hundreds of new trees each year in parks and natural areas with low canopy; and

WHEREAS, while PP&R augments its funding by seeking grants, public-private and inter-bureau partnerships, and volunteerism, funding is still insufficient to deliver promised services and outcomes to the community, to provide an equitable and affordable parks system, and to meet rising internal costs; and

WHEREAS, if approved, the levy tax rate would be \$0.80 per \$1,000 of assessed value, about \$13 per month for a median residential property owner; and

WHEREAS, if approved, a Parks levy would raise an estimated average of \$48 million per year to restart recreation programming, improve existing parks and natural area services, expand the urban tree canopy, and more; and

WHEREAS, as outlined in Exhibits A, B, and D, an oversight committee would be appointed to review levy expenditures and would report annually to the Council, and the levy would be audited to ensure that services and programs funded by the levy are consistent with voter intent; and

WHEREAS, PP&R is committed to working with local government partners with existing

property tax levies, including the Portland Children's Levy, Metro, and the Oregon Historical Society, to reduce financial impacts to their levies caused by compression under Oregon property tax law; and

WHEREAS, if this levy is not approved by voters, this measure would not change the annual tax rates; and

WHEREAS, if this levy is not approved by voters, fewer park services would be provided; and

WHEREAS, over the last century, Portlanders have created and maintained today's park system through a series of capital investments, including voter-approved bonds and levies such as the last Portland Parks & Recreation levy, which was passed by voters in 2002 and expired in 2007;

NOW, THEREFORE, BE IT RESOLVED that the Council submits an Act, attached hereto as Exhibit B, entitled: "A Measure directing a five year local option ad valorem property tax levy within the City of Portland at a rate of \$0.80 per \$1,000 of assessed value, outside certain constitutional limitations, commencing in fiscal year 2021-22, for parks and recreation purposes," and hereby submits to the legal voters of the City of Portland, Oregon, for their adoption or rejection at the General Election in the City of Portland, Multnomah County, Clackamas County, and Washington County, to be held on November 3, 2020. Each voter who votes upon said proposed measure shall vote "yes" or "no" in the space indicated for such vote on the City ballot at said election; and

BE IT FURTHER RESOLVED that the Council submits the ballot title, question, and summary for the November 3, 2020 General Election ballot, as shown in the attached Exhibit C; and

BE IT FURTHER RESOLVED that the Council directs the Auditor to publish the ballot title as shown in Exhibit C in accordance with City Code; and

BE IT FURTHER RESOLVED that the Council directs the Auditor to submit the explanatory statement attached as Exhibit D to the Multnomah, Clackamas, and Washington County elections offices for publication in each county's voters' pamphlet; and

BE IT FURTHER RESOLVED that the Auditor is directed to forward to the Multnomah, Clackamas, and Washington County elections offices all material necessary to place this measure on the November 3, 2020 General Election ballot; and

BE IT FURTHER RESOLVED that, upon passage of this levy by Portland voters, Council will make an appropriation in the annual budget from the Parks Local Option Levy Fund to the Children's Investment Fund for changes in revenue caused by compression from the Parks Local Option Levy under Oregon property tax law.

Adopted by the Council: July 22, 2020

Mayor Wheeler

Prepared by: [Robert Taylor](#), [Sarah Huggins](#)

Date Prepared: [7/13/2020](#)

Mary Hull Caballero

Auditor of the City of Portland

By *Keelan McClymont*
Deputy

616
 Agenda No.
RESOLUTION NO. 37498
 Title

Refer to the voters a five-year local option tax levy for the November 3, 2020 General Election to restore recreation programs and protect parks and natural areas (Resolution)

| | |
|--|--|
| INTRODUCED BY Commissioner/Auditor: Mayor Wheeler | CLERK USE: DATE FILED <u>July 14, 2020</u> |
| COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler | <div style="text-align: right;"> Mary Hull Caballero Auditor of the City of Portland </div> <div style="margin-top: 20px;"> By: <u><i>Keelan McClymont</i></u> Deputy </div> <div style="margin-top: 20px;"> ACTION TAKEN: </div> |
| Position 1/Utilities - Fritz | |
| Position 2/Works - Vacant | |
| Position 3/Affairs - Hardesty | |
| Position 4/Safety - Eudaly | |
| BUREAU APPROVAL Bureau: Parks & Recreation Bureau Head: Adena Long | |
| Prepared by: Sarah Huggins Date Prepared: 7/13/2020 | |
| 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 <i>Rob Taylor</i> | |
| Council Meeting Date 7/22/2020 | |

| |
|--|
| AGENDA |
| TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2 pm</u> Total amount of time needed: <u>90 m</u> (for presentation, testimony and discussion) |
| CONSENT <input 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 | ✓ | |
| 2. Vacant | | |
| 3. Hardesty | | |
| 4. Eudaly | ✓ | |
| Wheeler | ✓ | |


EXHIBIT A

To: Portland City Council

From: Adena Long, Director, Portland Parks & Recreation

Date: July 14, 2020

Subject: Portland Parks 5-Year Operating Levy Referral

Mayor Ted Wheeler and Portland Parks & Recreation (PP&R) propose, for the November 2020 election, a five-year local option levy of \$0.80 per \$1,000 of assessed value.

As you heard in our November 26, 2019 Sustainable Future work session, PP&R is not appropriately funded to deliver the service levels that the community and City Council expect.

Without new, reliable funding, Portlanders will continue to see reductions to regular service and maintenance in parks and growing inequities in access to recreation programs.

COVID-19 has made our need more urgent and acute. PP&R closed all community centers and public pools and canceled all recreation programming in early March, making it impossible to earn the fees our funding model depends on. This financial domino effect means that, as things stand today, we are likely unable to open pools and community centers, or offer classes, camps, and swimming lessons in summer 2021 and beyond.

We shared a variety of potential funding options with you at the November work session. But today's global economic climate, combined with our growing immediate need, led us to a levy as the best option for our current situation. This levy would improve equitable delivery of our programs and services, end our reliance on user fees, increase safety and cleanliness in parks and natural areas, and grow Portlanders' access to nature by protecting water quality, planting more trees, and removing invasive species.

It would also enable PP&R to reopen community centers and public pools, and restart recreational programs in summer 2021. If COVID-19 extends into 2021, the

Administration

1120 SW 5th Avenue, Suite 858
Portland, Oregon 97204
503-823-7529 | Fax 503-823-6007

PORTLANDPARKS.ORG

Ted Wheeler, Mayor
Adena Long, Director



levy would provide resources for PP&R to design equitable, safe, and accessible alternative recreation activities that meet current public health guidance.

If approved by voters, the levy will generate an average of \$48 million per year for five fiscal years. While PP&R does not expect that funding from a levy will reduce our ongoing General Fund allocation, we do expect that we will not need to make requests for additional General Fund for the life of the levy.

As Portland, and our parks system, continue to grow, PP&R is eager to provide the highest quality parks, natural areas, and recreation opportunities. And as a bureau we will continue to lead with equity – in the delivery of our services, in the growth of our lands and assets, and in our workforce and contracting. But to prevent unwanted cuts and closures, we need additional resources.

In this Resolution packet, attached as Exhibits B, C, and D, you will find a complete detailing of how levy funds would be used, the question and summary as presented to voters, and an accompanying explanatory statement from Council that would appear in the voter's pamphlet.

EXHIBIT B

AN ACT

A Measure directing a five year local option ad valorem property tax levy within the City of Portland at a rate of \$0.80 per \$1,000 of assessed value, outside certain constitutional limitations, commencing in fiscal year 2021-22, for parks and recreation purposes.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND, OREGON

Section 1. Local Option Levy. Pursuant to Section 7-112 of the Charter of the City of Portland, the Council shall levy for each of five successive years commencing with the fiscal year 2021-22, at the time taxes are levied for the payment of expenses of the City, a special tax at a rate of \$0.80 per \$1,000 of assessed value, on all property in the City of Portland not exempt from taxation. This local option levy is specifically authorized, and it shall not be counted as within the limitation provided by Sections 11 of Article XI of the Constitution of the State of Oregon. This levy shall, however, be subject to proportional reduction under Section 11(11)(c)(B)(i) of Article XI of the Constitution of the State of Oregon. This special tax hereby authorized shall be in addition to all other taxes that may be levied according to law. The proceeds from such levy shall be placed in a special fund to be designated as the Parks Local Option Levy Fund.

Section 2. Purposes of Revenue. The money in the Parks Local Option Levy Fund shall be expended only for the following parks and recreation purposes: operating and providing park programs; improving and enhancing recreation programs; preserving and improving health of natural areas, including but not limited to protection of habitat, water quality, erosion control, removal of invasive species; maintenance of natural areas and infrastructure in natural areas, and data system investments to better manage park assets, including natural assets; maintenance of parks and park facilities, including but not limited to basic park maintenance such as cleaning and opening restrooms, litter removal, landscape and grounds maintenance, safety checks on play equipment; safety and maintenance of trees on park properties, planning for and planting new trees, including data systems to manage trees; funds for operating community centers, pools, art and cultural centers; funds to deliver recreational programs, including, but not limited to, environmental education and access to nature for youth, summer camps, family-friendly movies and concerts, fitness and arts classes, teen- and senior-focused programs, swim lessons, and a summer playground program serving free lunches to children experiencing hunger; a study to inform future service goals for Interstate Firehouse Cultural Center; community partner grants and improved partnership and engagement with volunteer groups, including, but not limited to grants to other jurisdictions or other City programs to mitigate the impacts of property tax compression caused by this parks levy; levy administration costs, including, but not limited to community engagement, outreach, and marketing, costs including personnel, equipment, vehicles, space rentals, contracts, and funds for ongoing financial sustainability work; general fund and bureau overhead costs, a levy audit, annual reports, and costs associated with an oversight committee.

Section 3. Oversight and Accountability. The Director of Portland Parks & Recreation shall appoint an Oversight Committee of five residents of Portland who are users of the Portland parks system. The Oversight Committee shall prepare an annual report to the City Council reviewing the use of the levy revenue to ensure that the purposes of Section 2 are met. In addition, Portland Parks & Recreation shall commission an independent performance audit to evaluate whether the levy revenue has been used to successfully meet the intended purposes in Section 2.

Exhibit C

Caption: Restore recreation programs, parks, nature, water through five-year levy

Question: Shall Portland protect, restore recreation programs, parks, nature, clean water; 5-year operating levy, \$0.80 per \$1,000 assessed value, beginning 2021? This measure may cause property taxes to increase more than three percent.

Summary: Levy will prevent ongoing reductions to park services and recreation programs, preserve and restore park and natural area health, and center equity and affordable access for all.

Levy funds will:

- Enhance and preserve parks, rivers, wetlands, trees, and other important natural features in urban areas for the benefit of all Portlanders and wildlife;
- Provide park and recreation services to diverse populations including communities of color, seniors, teens, households experiencing poverty, immigrants and refugees, and people living with disabilities;
- Increase opportunities for communities of color and children experiencing poverty to connect with nature;
- Prevent cuts to recreation programs, closures of community centers and pools; and
- Enhance park maintenance to keep parks clean and safe, including litter and hazardous waste removal, restroom cleaning, and playground safety.

If levy fails, service improvements and restoration described above will not occur; taxes will not increase.

A five-member oversight committee will review levy expenditures, provide annual reports. Independent audit required.

Levy is \$0.80 per \$1,000 assessed home value. The proposed rate will raise approximately \$44,735,000, in 2021–2022, \$46,240,000 in 2022–2023, \$47,705,000 in 2023–2024, \$49,262,000 in 2024–2025, and \$51,135,000 in 2025–2026, for a total of \$239,078,000.

A median residential homeowner pays \$151 per year, or about \$13 per month.

EXHIBIT D
Explanatory Statement

This Measure would allow the City of Portland to levy \$0.80 per \$1,000 assessed value for five years for the purpose of operating the park system. The services and programs to be funded by this measure are planned to include, but are not limited to:

- Protect water quality and wildlife habitat, control erosion, remove invasive species in 8,000 acres of natural area.
- Deliver recreational programs, including, but not limited to, environmental education and access to nature for youth, summer camps, family-friendly movies and concerts, fitness and arts classes, teen- and senior-focused programs, life-saving swim lessons, and a summer playground program serving free lunches to children experiencing hunger.
- Remove financial barriers for low-income households by ending current dependence on recreation fee revenues, allowing an equity-focused delivery of community events and programs and reducing the likelihood of further cuts to recreation offerings.
- Clean litter and hazardous waste in parks and natural areas, maintain grounds and landscaping, provide safety checks on play equipment, improve preventative and traditional maintenance.
- Keep public restrooms open and cleaner.
- Plant new trees in communities where today canopy coverage is lower, to improve air and water quality, diminish the impacts of climate change, and provide wildlife habitat.
- Protect Portland's 1.2 million park trees by performing proactive maintenance, safety checks, hazard removal, and replacement of damaged trees in parks and natural areas.
- Modernize data systems to improve internal efficiency.
- Prioritize services for communities of color and households experiencing poverty, including equity-centered engagement and outreach, community partnership grants, and increased engagement with volunteer and partner groups.

A community oversight committee will be appointed to review levy expenditures and to report annually to City Council. The Measure also directs the Bureau to provide for a performance audit to ensure that services funded by the levy are consistent with voter intent.

The City estimates that the levy tax rate of \$0.80/\$1,000 assessed value would cost a median residential property approximately \$13 per month, and would raise approximately \$45 million in the first year, with an estimated average of \$48 million raised each year for the five-year period. If this Measure is not approved, taxes for Park services will not be assessed.

Submitted by:
City of Portland City Council
Mayor Ted Wheeler

Exhibit C

Caption: Restore recreation programs, parks, nature, water through five-year levy

Question: Shall Portland protect, restore recreation programs, parks, nature, clean water; 5-year operating levy, \$0.80 per \$1,000 assessed value, beginning 2021? This measure may cause property taxes to increase more than three percent.

Summary: Levy will prevent ongoing reductions to park services and recreation programs, preserve and restore park and natural area health, and center equity and affordable access for all.

Levy funds will:

- Enhance and preserve parks, rivers, wetlands, trees, and other important natural features in urban areas for the benefit of all Portlanders and wildlife;
- Provide park and recreation services to diverse populations including communities of color, seniors, teens, households experiencing poverty, immigrants and refugees, and people living with disabilities;
- Increase opportunities for communities of color and children experiencing poverty to connect with nature;
- Prevent cuts to recreation programs, closures of community centers and pools; and
- Enhance park maintenance to keep parks clean and safe, including litter and hazardous waste removal, restroom cleaning, and playground safety.

If levy fails, service improvements and restoration described above will not occur; taxes will not increase.

A five-member oversight committee will review levy expenditures, provide annual reports. Independent audit required.

Levy is \$0.80 per \$1,000 assessed home value. The proposed rate will raise approximately \$44,735,000, in 2021–2022, \$46,240,000 in 2022–2023, \$47,705,000 in 2023–2024, \$49,262,000 in 2024–2025, and \$51,135,000 in 2025–2026, for a total of \$239,078,000.

A median residential homeowner pays \$151 per year, or about \$13 per month.

Notice of Measure Election

City

26-213

SEL 802

rev 01/18 ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465

| | | |
|---|---|---|
| Notice | | |
| Date of Notice August 5, 2020 | Name of City or Cities City of Portland | Date of Election November 3, 2020 |

Final Ballot Title The following is the final ballot title of the measure to be submitted to the city's voters. The ballot title notice has been published and the ballot title challenge process has been completed.

Caption 10 words which reasonably identifies the subject of the measure.
See attached

Question 20 words which plainly phrases the chief purpose of the measure.
See attached

Summary 175 words which concisely and impartially summarizes the measure and its major effect.
See attached

RECEIVED
20 AUG -6 2M 11:53
DIRECTOR

Explanatory Statement 500 words that impartially explains the measure and its effect.

If the county is producing a voters' pamphlet an explanatory statement must be drafted and attached to this form for:
→ any measure referred by the city governing body; or
→ any initiative or referendum, if required by local ordinance.

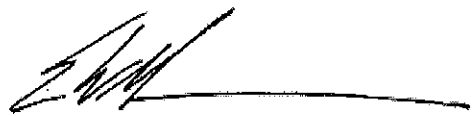
Explanatory Statement Attached? Yes No

Authorized City Official Not required to be notarized.

| | |
|----------------------------|-----------------------|
| Name Ted Wheeler | Title Mayor |
|----------------------------|-----------------------|

| | |
|---|--|
| Mailing Address 1221 SW 4th Avenue Room 340 Portland OR 97204 | Contact Phone (503) 823-4120 |
|---|--|

By signing this document:
→ I hereby state that I am authorized by the city to submit this Notice of Measure Election; and
→ I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.



August 5, 2020

| | |
|------------------|--------------------|
| Signature | Date Signed |
|------------------|--------------------|

Ballot Title

Caption: Restore recreation programs, parks, nature, water through five-year levy

Question: Shall Portland protect, restore recreation programs, parks, nature, clean water; 5-year operating levy, \$0.80 per \$1,000 assessed value, beginning 2021? This measure may cause property taxes to increase more than three percent.

Summary: Levy will prevent ongoing reductions to park services and recreation programs, preserve and restore park and natural area health, and center equity and affordable access for all.

Levy funds will:

- Enhance and preserve parks, rivers, wetlands, trees, and other important natural features in urban areas for the benefit of all Portlanders and wildlife;
- Provide park and recreation services to diverse populations including communities of color, seniors, teens, households experiencing poverty, immigrants and refugees, and people living with disabilities;
- Increase opportunities for communities of color and children experiencing poverty to connect with nature;
- Prevent cuts to recreation programs, closures of community centers and pools; and
- Enhance park maintenance to keep parks clean and safe, including litter and hazardous waste removal, restroom cleaning, and playground safety.

If levy fails, service improvements and restoration described above will not occur; taxes will not increase.

A five-member oversight committee will review levy expenditures, provide annual reports. Independent audit required.

Levy is \$0.80 per \$1,000 assessed home value. The proposed rate will raise approximately \$44,735,000, in 2021–2022, \$46,240,000 in 2022–2023, \$47,705,000 in 2023–2024, \$49,262,000 in 2024–2025, and \$51,135,000 in 2025–2026, for a total of \$239,078,000.

A median residential homeowner pays \$151 per year, or about \$13 per month.

EXHIBIT D Explanatory Statement

This Measure would allow the City of Portland to levy \$0.80 per \$1,000 assessed value for five years for the purpose of operating the park system. The services and programs to be funded by this measure are planned to include, but are not limited to:

- Protect water quality and wildlife habitat, control erosion, remove invasive species in 8,000 acres of natural area.
- Deliver recreational programs, including, but not limited to, environmental education and access to nature for youth, summer camps, family-friendly movies and concerts, fitness and arts classes, teen- and senior-focused programs, life-saving swim lessons, and a summer playground program serving free lunches to children experiencing hunger.
- Remove financial barriers for low-income households by ending current dependence on recreation fee revenues, allowing an equity-focused delivery of community events and programs and reducing the likelihood of further cuts to recreation offerings.
- Clean litter and hazardous waste in parks and natural areas, maintain grounds and landscaping, provide safety checks on play equipment, improve preventative and traditional maintenance.
- Keep public restrooms open and cleaner.
- Plant new trees in communities where today canopy coverage is lower, to improve air and water quality, diminish the impacts of climate change, and provide wildlife habitat.
- Protect Portland's 1.2 million park trees by performing proactive maintenance, safety checks, hazard removal, and replacement of damaged trees in parks and natural areas.
- Modernize data systems to improve internal efficiency.
- Prioritize services for communities of color and households experiencing poverty, including equity-centered engagement and outreach, community partnership grants, and increased engagement with volunteer and partner groups.

A community oversight committee will be appointed to review levy expenditures and to report annually to City Council. The Measure also directs the Bureau to provide for a performance audit to ensure that services funded by the levy are consistent with voter intent.

The City estimates that the levy tax rate of \$0.80/\$1,000 assessed value would cost a median residential property approximately \$13 per month, and would raise approximately \$45 million in the first year, with an estimated average of \$48 million raised each year for the five-year period. If this Measure is not approved, taxes for Park services will not be assessed.

Submitted by:
City of Portland City Council
Mayor Ted Wheeler



EXHIBIT A

To: Portland City Council

From: Adena Long, Director, Portland Parks & Recreation

Date: July 14, 2020

Subject: Portland Parks 5-Year Operating Levy Referral

Mayor Ted Wheeler and Portland Parks & Recreation (PP&R) propose, for the November 2020 election, a five-year local option levy of \$0.80 per \$1,000 of assessed value.

As you heard in our November 26, 2019 Sustainable Future work session, PP&R is not appropriately funded to deliver the service levels that the community and City Council expect.

Without new, reliable funding, Portlanders will continue to see reductions to regular service and maintenance in parks and growing inequities in access to recreation programs.

COVID-19 has made our need more urgent and acute. PP&R closed all community centers and public pools and canceled all recreation programming in early March, making it impossible to earn the fees our funding model depends on. This financial domino effect means that, as things stand today, we are likely unable to open pools and community centers, or offer classes, camps, and swimming lessons in summer 2021 and beyond.

We shared a variety of potential funding options with you at the November work session. But today's global economic climate, combined with our growing immediate need, led us to a levy as the best option for our current situation. This levy would improve equitable delivery of our programs and services, end our reliance on user fees, increase safety and cleanliness in parks and natural areas, and grow Portlanders' access to nature by protecting water quality, planting more trees, and removing invasive species.

It would also enable PP&R to reopen community centers and public pools, and restart recreational programs in summer 2021. If COVID-19 extends into 2021, the

Administration

1120 SW 5th Avenue, Suite 858
Portland, Oregon 97204
503-823-7529 | Fax 503-823-6007

PORTLANDPARKS.ORG

Ted Wheeler, Mayor
Adena Long, Director



levy would provide resources for PP&R to design equitable, safe, and accessible alternative recreation activities that meet current public health guidance.

If approved by voters, the levy will generate an average of \$48 million per year for five fiscal years. While PP&R does not expect that funding from a levy will reduce our ongoing General Fund allocation, we do expect that we will not need to make requests for additional General Fund for the life of the levy.

As Portland, and our parks system, continue to grow, PP&R is eager to provide the highest quality parks, natural areas, and recreation opportunities. And as a bureau we will continue to lead with equity – in the delivery of our services, in the growth of our lands and assets, and in our workforce and contracting. But to prevent unwanted cuts and closures, we need additional resources.

In this Resolution packet, attached as Exhibits B, C, and D, you will find a complete detailing of how levy funds would be used, the question and summary as presented to voters, and an accompanying explanatory statement from Council that would appear in the voter's pamphlet.

EXHIBIT B

AN ACT

A Measure directing a five year local option ad valorem property tax levy within the City of Portland at a rate of \$0.80 per \$1,000 of assessed value, outside certain constitutional limitations, commencing in fiscal year 2021-22, for parks and recreation purposes.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND, OREGON

Section 1. Local Option Levy. Pursuant to Section 7-112 of the Charter of the City of Portland, the Council shall levy for each of five successive years commencing with the fiscal year 2021-22, at the time taxes are levied for the payment of expenses of the City, a special tax at a rate of \$0.80 per \$1,000 of assessed value, on all property in the City of Portland not exempt from taxation. This local option levy is specifically authorized, and it shall not be counted as within the limitation provided by Sections 11 of Article XI of the Constitution of the State of Oregon. This levy shall, however, be subject to proportional reduction under Section 11(11)(c)(B)(i) of Article XI of the Constitution of the State of Oregon. This special tax hereby authorized shall be in addition to all other taxes that may be levied according to law. The proceeds from such levy shall be placed in a special fund to be designated as the Parks Local Option Levy Fund.

Section 2. Purposes of Revenue. The money in the Parks Local Option Levy Fund shall be expended only for the following parks and recreation purposes: operating and providing park programs; improving and enhancing recreation programs; preserving and improving health of natural areas, including but not limited to protection of habitat, water quality, erosion control, removal of invasive species; maintenance of natural areas and infrastructure in natural areas, and data system investments to better manage park assets, including natural assets; maintenance of parks and park facilities, including but not limited to basic park maintenance such as cleaning and opening restrooms, litter removal, landscape and grounds maintenance, safety checks on play equipment; safety and maintenance of trees on park properties, planning for and planting new trees, including data systems to manage trees; funds for operating community centers, pools, art and cultural centers; funds to deliver recreational programs, including, but not limited to, environmental education and access to nature for youth, summer camps, family-friendly movies and concerts, fitness and arts classes, teen- and senior-focused programs, swim lessons, and a summer playground program serving free lunches to children experiencing hunger; a study to inform future service goals for Interstate Firehouse Cultural Center; community partner grants and improved partnership and engagement with volunteer groups, including, but not limited to grants to other jurisdictions or other City programs to mitigate the impacts of property tax compression caused by this parks levy; levy administration costs, including, but not limited to community engagement, outreach, and marketing, costs including personnel, equipment, vehicles, space rentals, contracts, and funds for ongoing financial sustainability work; general fund and bureau overhead costs, a levy audit, annual reports, and costs associated with an oversight committee.

Section 3. Oversight and Accountability. The Director of Portland Parks & Recreation shall appoint an Oversight Committee of five residents of Portland who are users of the Portland parks system. The Oversight Committee shall prepare an annual report to the City Council reviewing the use of the levy revenue to ensure that the purposes of Section 2 are met. In addition, Portland Parks & Recreation shall commission an independent performance audit to evaluate whether the levy revenue has been used to successfully meet the intended purposes in Section 2.

Exhibit C

Caption: Restore recreation programs, parks, nature, water through five-year levy

Question: Shall Portland protect, restore recreation programs, parks, nature, clean water; 5-year operating levy, \$0.80 per \$1,000 assessed value, beginning 2021? This measure may cause property taxes to increase more than three percent.

Summary: Levy will prevent ongoing reductions to park services and recreation programs, preserve and restore park and natural area health, and center equity and affordable access for all.

Levy funds will:

- Enhance and preserve parks, rivers, wetlands, trees, and other important natural features in urban areas for the benefit of all Portlanders and wildlife;
- Provide park and recreation services to diverse populations including communities of color, seniors, teens, households experiencing poverty, immigrants and refugees, and people living with disabilities;
- Increase opportunities for communities of color and children experiencing poverty to connect with nature;
- Prevent cuts to recreation programs, closures of community centers and pools; and
- Enhance park maintenance to keep parks clean and safe, including litter and hazardous waste removal, restroom cleaning, and playground safety.

If levy fails, service improvements and restoration described above will not occur; taxes will not increase.

A five-member oversight committee will review levy expenditures, provide annual reports. Independent audit required.

Levy is \$0.80 per \$1,000 assessed home value. The proposed rate will raise approximately \$44,735,000, in 2021–2022, \$46,240,000 in 2022–2023, \$47,705,000 in 2023–2024, \$49,262,000 in 2024–2025, and \$51,135,000 in 2025–2026, for a total of \$239,078,000.

A median residential homeowner pays \$151 per year, or about \$13 per month.

EXHIBIT D
Explanatory Statement

This Measure would allow the City of Portland to levy \$0.80 per \$1,000 assessed value for five years for the purpose of operating the park system. The services and programs to be funded by this measure are planned to include, but are not limited to:

- Protect water quality and wildlife habitat, control erosion, remove invasive species in 8,000 acres of natural area.
- Deliver recreational programs, including, but not limited to, environmental education and access to nature for youth, summer camps, family-friendly movies and concerts, fitness and arts classes, teen- and senior-focused programs, life-saving swim lessons, and a summer playground program serving free lunches to children experiencing hunger.
- Remove financial barriers for low-income households by ending current dependence on recreation fee revenues, allowing an equity-focused delivery of community events and programs and reducing the likelihood of further cuts to recreation offerings.
- Clean litter and hazardous waste in parks and natural areas, maintain grounds and landscaping, provide safety checks on play equipment, improve preventative and traditional maintenance.
- Keep public restrooms open and cleaner.
- Plant new trees in communities where today canopy coverage is lower, to improve air and water quality, diminish the impacts of climate change, and provide wildlife habitat.
- Protect Portland's 1.2 million park trees by performing proactive maintenance, safety checks, hazard removal, and replacement of damaged trees in parks and natural areas.
- Modernize data systems to improve internal efficiency.
- Prioritize services for communities of color and households experiencing poverty, including equity-centered engagement and outreach, community partnership grants, and increased engagement with volunteer and partner groups.

A community oversight committee will be appointed to review levy expenditures and to report annually to City Council. The Measure also directs the Bureau to provide for a performance audit to ensure that services funded by the levy are consistent with voter intent.

The City estimates that the levy tax rate of \$0.80/\$1,000 assessed value would cost a median residential property approximately \$13 per month, and would raise approximately \$45 million in the first year, with an estimated average of \$48 million raised each year for the five-year period. If this Measure is not approved, taxes for Park services will not be assessed.

Submitted by:
City of Portland City Council
Mayor Ted Wheeler

EXHIBIT A**Proposed Charter Changes****PREAMBLE****Chapter 2: Government****Article 10: Community Police Oversight Board**

Section 2-1001. City of Portland Community Police Oversight Board. A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002. Nature of the Board. Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003. Restrictions on Board Membership. People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004. Budget of the Board Funding for the Board shall be proportional to be no less than 5% of the Police Bureau's Annual Operational Budget.

Section 2-1005. Professional Staff of the Board The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006. Independent Authority The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007. Powers of the Board

- (A) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.
- (B) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.
- (C) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.
- (D) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008. Duties of the Board. The board shall have the authority to investigate certain Police actions, including but not limited to;

- (A) All deaths in custody and uses of deadly force.
- (B) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- (C) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009. Severability. For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

Notice of Receipt of Ballot Title (07/23/20)

NOTICE OF RECEIPT OF BALLOT TITLE

Notice is hereby given that a ballot title for a measure referred by the Portland City Council to qualified voters at the November 3, 2020 General Election has been filed with the Elections Office of the City of Portland on July 23, 2020.

An elector may file a petition for review of this ballot title in the Multnomah County Circuit Court no later than 5:00 P.M., August 3, 2020.

The ballot title is as follows:

BALLOT TITLE

Caption:

Restore recreation programs, parks, nature, water through five-year levy

Question:

Shall Portland protect, restore recreation programs, parks, nature, clean water; 5-year operating levy, \$0.80 per \$1,000 assessed value, beginning 2021? This measure may cause property taxes to increase more than three percent.

Summary:

Levy will prevent ongoing reductions to park services and recreation programs, preserve and restore park and natural area health, and center equity and affordable access for all.

Levy funds will:

- Enhance and preserve parks, rivers, wetlands, trees, and other important natural features in urban areas for the benefit of all Portlanders and wildlife;
- Provide park and recreation services to diverse populations including communities of color, seniors, teens, households experiencing poverty, immigrants and refugees, and people living with disabilities;
- Increase opportunities for communities of color and children experiencing poverty to connect with nature;
- Prevent cuts to recreation programs, closures of community centers and pools; and

- Enhance park maintenance to keep parks clean and safe, including litter and hazardous waste removal, restroom cleaning, and playground safety.

If levy fails, service improvements and restoration described above will not occur; taxes will not increase.

A five-member oversight committee will review levy expenditures, provide annual reports. Independent audit required.

Levy is \$0.80 per \$1,000 assessed home value. The proposed rate will raise approximately \$44,735,000, in 2021–2022, \$46,240,000 in 2022–2023, \$47,705,000 in 2023–2024, \$49,262,000 in 2024–2025, and \$51,135,000 in 2025–2026, for a total of \$239,078,000.

A median residential homeowner pays \$151 per year, or about \$13 per month.



P O R T L A N D
CITY AUDITOR
Elections

REPORT TO COUNCIL

DATE: December 2, 2020

TO: City Council

FROM: Auditor Mary Hull Caballero

SUBJECT: Certify results of November 3, 2020 Municipal Non-Partisan General Election, candidates elected, and proclaim measures approved (Report)

Tim Scott, Director of Elections for Multnomah County, has filed in the Office of the City Auditor the abstract of votes cast at the Municipal Non-Partisan General Election held in the City of Portland on November 3, 2020 for City of Portland candidates and measures as follows:

CANDIDATES

Two candidates appeared on the ballot for a run-off election for offices of Mayor and Commissioner, Position No. 4.

| Mayor | Multnomah | Clackamas | Washington | Total | % |
|--------------------|------------------|------------------|-------------------|----------------|---------------|
| Ted Wheeler | 166,543 | 265 | 452 | 167,260 | 46.07 |
| Sarah Iannarone | 147,437 | 152 | 375 | 147,964 | 40.76 |
| Write-In | 47,703 | 57 | 72 | 47,832 | 13.17 |
| TOTAL | 361,683 | 474 | 899 | 363,056 | 100.00 |

| Commissioner Pos. 4 | Multnomah | Clackamas | Washington | Total | % |
|----------------------------|------------------|------------------|-------------------|----------------|---------------|
| Mingus Mapps | 186,700 | 288 | 398 | 187,386 | 55.59 |
| Chloe Eudaly | 145,909 | 99 | 391 | 146,399 | 43.43 |
| Write-In | 3,252 | 13 | 11 | 3,276 | 0.97 |
| TOTAL | 335,861 | 400 | 800 | 337,061 | 100.00 |

Per City Code Section 2.08.040, Ted Wheeler has been re-elected to the office of Mayor and Mingus Mapps has been elected to Commissioner, Position No. 4.



MEASURES

Two measures, qualifying for the ballot by City-Council referral, were approved as follows:

Measure 26-213

Ballot title caption: Restore recreation programs, parks, nature, water through five-year levy.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 234,942 | 226 | 547 | 235,715 | 63.94 |
| No | 132,315 | 285 | 358 | 132,958 | 36.06 |
| TOTAL | 367,257 | 511 | 905 | 368,673 | 100.00 |

Measure 26-217

Ballot title caption: Amends Charter: Authorizes new, independent community police oversight board.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 300,486 | 314 | 727 | 301,527 | 81.58 |
| No | 67,713 | 192 | 183 | 68,088 | 18.42 |
| TOTAL | 368,199 | 506 | 910 | 369,615 | 100.00 |

One measure, qualifying to the ballot by City-Council referral was rejected as follows:

Measure 26-219

Ballot title caption: Amends Charter: Authorizes new Water Fund spending; addresses land use.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 165,868 | 151 | 418 | 166,437 | 47.76 |
| No | 181,323 | 326 | 409 | 182,058 | 52.24 |
| TOTAL | 347,191 | 477 | 827 | 348,495 | 100.00 |

REGISTERED VOTERS

According to data available from all three counties at the time of certification, the number of total registered voters in the City of Portland on November 3, 2020 was 463,900.

Measure 26-219

RESOLUTION No. 37495 As Amended

Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

WHEREAS, the Portland City Charter authorizes the City to take certain actions and make necessary expenditures regarding the provision of water services to the City including, but not limited to, authority to acquire, own, and possess real property within and without the limits of the City; and

WHEREAS, City-owned lands outside the Bull Run Watershed Closure Area that are necessary for the provision of water services are often located in areas where the public could benefit from use of the land for purposes that are compatible and do not interfere with the City's use of the land for the provision of water services; and

WHEREAS, the City Charter amendment clarifies the City Council's authority to permit or prohibit incidental uses for such City-owned lands; and

WHEREAS, the public's incidental use of certain City-owned lands may result in associated costs to the Water Fund related to the public's use of the land; and

WHEREAS, Portland voters should be allowed to engage in decisions related to the public's incidental use of City-owned lands; and

WHEREAS, the public should determine, in partnership with the Water Bureau and the City Council, whether incidental public uses of public property owned by the Water Bureau, is appropriate; and

WHEREAS, Water Bureau lands with incidental uses by the general public must be brought into compliance with accessibility requirements of the Americans with Disabilities Act to ensure equitable public access; and

WHEREAS, a referral to the ballot on this issue on November 3, 2020, would allow for all Portland voters to provide input in a timely manner;

NOW, THEREFORE, BE IT RESOLVED, that the Council submits a Measure for an Act, amending the City of Portland Charter, Chapter 11, attached hereto as Exhibit A, to the legal voters of the City of Portland, Oregon, for their adoption or rejection at the election in the City of Portland, Multnomah County, Clackamas County and Washington County to be held on November 3, 2020; and

BE IT FURTHER RESOLVED, that the City Council submits the ballot title for the November 3, 2020 ballot, attached hereto as Exhibit B; and

BE IT FURTHER RESOLVED, that should the proposed Charter amendment be approved by the voters, the Water Bureau shall conduct a public process in partnership with the Portland Utility Board to recommend Code language for adoption by the City Council prior to June 30, 2021 specifying approved incidental uses, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that, should the proposed Charter amendment be approved by the voters and after adoption of implementing Code specifications, the Portland Water Bureau shall report annually to the Portland Utility Board and City Council all Water Fund expenditures associated with the public's incidental use of City-owned lands, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that the City Council directs the City Auditor to publish the ballot title as shown in Exhibit B in accordance with City Code; and

BE IT FURTHER RESOLVED, that the sponsoring elected official may submit an explanatory statement to the City Auditor for publication in the Voters' Pamphlet; and

BE IT FURTHER RESOLVED, that the City Auditor is directed to forward to the Multnomah, Washington, and Clackamas County Elections Office all material necessary to place this measure on the November 3, 2020 election ballot.

Adopted by the Council: **July 22, 2020**

Commissioner Amanda Fritz
Prepared by: Astrid Dragoy
Date Prepared: July 21, 2020

Mary Hull Caballero
Auditor of the City of Portland
Keelan McClymont
Deputy

615

Agenda No. **RESOLUTION NO. 37495 As Amended**

Title

Refer amendment to the City Charter regarding Public use of City Lands for Permissive Secondary Purposes (Resolution)

| | |
|--|--|
| INTRODUCED BY Commissioner/Auditor: Commissioner Fritz | CLERK USE: DATE FILED <u>July 14, 2020</u> |
| COMMISSIONER APPROVAL | <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u>Keelan McClymont</u> Deputy</p> <p>ACTION TAKEN:</p> |
| Mayor—Finance & Administration – Wheeler | |
| Position 1/Utilities - Fritz <i>Amanda Fritz</i> | |
| Position 2/Works - Vacant | |
| Position 3/Affairs - Hardesty | |
| Position 4/Safety - Eudaly | |
| BUREAU APPROVAL | |
| Bureau: Commissioner Fritz Bureau Head: | |
| Prepared by: Astrid Dragoy Date Prepared: July, 14, 2020 | |
| 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 /s/ MKH 7/14/2020 | |
| Council Meeting Date July 22, 2020 | |

| |
|--|
| AGENDA |
| TIME CERTAIN <input type="checkbox"/> |
| Start time: _____ |
| Total amount of time needed: 15 (for presentation, testimony and discussion) |
| CONSENT <input type="checkbox"/> |
| REGULAR <input checked="" type="checkbox"/> |
| Total amount of time needed: 15 (for presentation, testimony and discussion) |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: | |
|--------------------|---------------------------------|------|
| | YEAS | NAYS |
| 1. Fritz | ✓ | |
| 2. Vacant | | |
| 3. Hardesty | ✓ | |
| 4. Eudaly | ✓ | |
| Wheeler | ✓ | |

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 11

SPECIAL SERVICES

ARTICLE 1. WATER WORKS**Section 11-101. General Authority.**

The City may construct, rehabilitate, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all infrastructure ~~plants and facilities~~ found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may permit or prohibit incidental use by the general public of such lands outside of the Bull Run Watershed Closure Area; may maintain such lands when used for incidental purposes; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

BALLOT TITLE**CAPTION:**

Amends Charter: Authorizes incidental public use, lands outside Bull Run.

QUESTION:

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau , provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council. The public's incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.

BALLOT TITLE**CAPTION:**

Amends Charter: Authorizes incidental public use, ~~non-~~lands outside Bull Run ~~lands~~.

QUESTION:

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau ~~for use in the City's water system~~, provided the lands are outside of the Bull Run Watershed Closure Area.

Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council.

The public's incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.

IMPACT STATEMENT

Legislation title: Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

Contact name: Astrid Dragoy

Contact phone: 503-823-6426

Presenter name: Astrid Dragoy, Gabriel Solmer, Cecelia Huynh

Purpose of proposed legislation and background information:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau for use in the City's water system, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands. The public's incidental use may result in associated costs to the Water Fund, including compliance with the Americans with Disabilities Act. The measure will not impact City lands in the Bull Run Watershed Closure Area.

Financial and budgetary impacts:

- As this is a general election year, there are minimal costs to the City to file this ballot measure with the county.
- This measure, if approved would permit rate-payer funds to be used in lieu of General Funds for ADA compliance. The estimate that was not approved in the FY 2020-21 budget request was \$1.5 million for ADA compliance.
- The Water Bureau is currently spending approximately \$11,500 in General Funds on hydroparks maintenance. This Charter change would permit rate-payer funds to be used in lieu.
- Whether there will be an impact from rates if the measure passes will be determined by which incidental uses are approved by Council in the subsequent Code process, and on timing of ADA compliance. The plan in the FY 2020-21 Budget was to do them over five years, which could be accommodated within existing rates.
- The passing of this measure will not require additional staff.

Community impacts and community involvement:

The 2014 Citywide Transition Plan identified 580 Americans with Disabilities Act barriers at Water Bureau Facilities accessed by the public. The schedule for barrier removal in the Transition Plan has not been met as rate payer funds cannot be used for much of this work. This Charter amendment would allow the Bureau to make improvements for compliance with the Americans with Disabilities Act using ratepayer funding for removal of barriers.

HydroParks are located at:

Gilbert HydroPark - 13803 SE Center Street

Halsey HydroPark - NE 148th and Halsey Street

Hazelwood HydroPark - 1017 NE 117th Ave

Marigold HydroPark - 8925 SW 15th Ave

Pittman Addition HydroPark - N Concord and N Going Court

Sabin HydroPark - 1907 NE Skidmore

Texas HydroPark - 3109 SW Texas Street

Except for the two small locations in SW, these facilities are all in areas with high equity scores and significant populations of people of color and families experiencing low incomes. Several are in parks-deficient areas. Nearby residents have expressed strong support for community use of the sites and for the basic amenities provided.

In addition, the Water Bureau maintains Dodge Park in Clackamas County and allows incidental use there by the general public including access to the Sandy River. The area is sparsely populated and there is no data on the demographics of visitors. Many of the needed ADA improvements are at Dodge Park.

The Charter amendment has been discussed and endorsed by the Portland Utility Board recently, and an earlier version was released for public review in 2019. The text of the proposed Charter Change and explanatory statement are posted on Commissioner Fritz’s office blog, with encouragement to email her staff with questions and comments.

100% Renewable Goal:

- Not applicable

Budgetary Impact Worksheet

Does this action change appropriations?

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

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

Notice of Measure Election

SEL 802

City

26-219

rev 01/18 ORS 250.035, 250.041, 250.275, 250.285, 254.095, 254.465

Notice

Date of Notice

9/3/2020

Name of City or Cities

City of Portland

Date of Election

11/3/2020

Final Ballot Title The following is the final ballot title of the measure to be submitted to the city's voters. The ballot title notice has been published and the ballot title challenge process has been completed.

Caption 10 words which reasonably identifies the subject of the measure.

see attached

Question 20 words which plainly phrases the chief purpose of the measure.

see attached

Summary 175 words which concisely and impartially summarizes the measure and its major effect.

see attached

RECEIVED
20 SEP -3 AM 8:11
DIRECTOR OF BUDGET

Explanatory Statement 500 words that impartially explains the measure and its effect.

If the county is producing a voters' pamphlet an explanatory statement must be drafted and attached to this form for:

- any measure referred by the city governing body; or
- any initiative or referendum, if required by local ordinance.

Explanatory Statement Attached?

Yes

No

Authorized City Official Not required to be notarized.

Name

Commissioner Amanda Fritz

Title

Commissioner, City of Portland

Mailing Address

1221 SW 4th Ave, Suite 220, Portland, OR 97204

Contact Phone

503-823-6426

By signing this document:

- I hereby state that I am authorized by the city to submit this Notice of Measure Election; and
- I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.

Amanda Fritz

9/2/2020

Signature

Date Signed

titles. Pursuant to ORS 250.296(1), the Court hereby certifies to the city elections officer the following ballot title:

CAPTION

Amends Charter: Authorizes new Water Fund spending; addresses land use.

QUESTION

Shall Charter allow Water Fund to finance incidental public uses of certain Water Bureau lands, and explicitly authorize these uses?

SUMMARY

The Water Fund is funded by water service ratepayers and used only to pay costs of providing water service.

A judge recently found that the City Charter does not authorize City Council to spend Water Fund monies on any uses of Water Bureau land not “reasonably related” to providing water service to residents.

Measure would amend the Charter to state explicitly that Council may spend Water Fund monies on general public “incidental uses” (undefined) of Water Bureau lands other than the Bull Run Watershed Closure Area. Measure would allow Council to raise water rates to pay for costs created by such incidental uses.

Measure would also amend the Charter to state explicitly that Council may permit or prohibit such uses.

Incidental uses may include neighborhood green spaces and community gardens. Current examples of such uses include recreational uses of Dodge Park, Powell Butte Nature Park, and other “HydroParks.”

Costs related to incidental public uses may include maintaining the lands and facilities, and ensuring compliance with state and federal laws, including the Americans with Disabilities Act.

Counsel for Petitioners will submit an appropriate form of judgment consistent with this opinion.

Dated this 1st day of September, 2020.

DATED: September 1, 2020.

Benjamin Souede
Circuit Court Judge

If passed, this City Charter amendment would clarify the City Council's authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau. Incidental public uses – when approved by the City Council after a public engagement process – may include neighborhood green spaces, community gardens, picnic benches, play equipment or other uses that do not conflict with the primary drinking water purpose of these lands. The proposed amendment will not impact City lands in the Bull Run Watershed Closure Area, which would remain closed to the general public.

The public's incidental use may result in associated costs to the Water Fund, which is the Water Bureau's operating fund. Associated costs may include maintenance and improvements to lands and facilities and compliance with state and federal laws, including the Americans with Disabilities Act.

If the amendment is not passed, the City Council's authority to permit or prohibit incidental public use on non-Bull Run Watershed lands would continue to be implied by the City Charter, and management of these lands would be reliant on General Fund discretionary funds.

(184 words)

BALLOT TITLE

CAPTION:

Amends Charter: Authorizes incidental public use, lands outside Bull Run.

QUESTION:

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council. The public's incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

KENT CRAFORD, FLOY JONES, and ERIC FRUITS

Petitioners,

v.

TRACY REEVE, City Attorney

Respondent.

Case No.

PETITION FOR DIFFERENT MEASURE TITLE AND EXPLANATORY STATEMENT

Filing Fee: \$281.00 - ORS 21.135(1)

Petitioners allege:

1.

Petitioners are electors of the City of Portland.

2.

Respondent is the City Attorney for the City of Portland.

3.

On July 22, 2020, the Portland City Council referred a measure for an act amending the Portland City Charter, Chapter 11 to the legal voters of the City of Portland for their adoption or rejection at the November 3, 2020 general election (the "Measure"). A true and accurate copy of the Measure is attached as Exhibit 1.

4.

On or about July 23, 2020, Respondent filed the ballot title for the Measure with the City Auditor. A true and accurate copy of Resolution No. 37495 As Amended, submitting the ballot title to the voters for the November 3, 2020 general election, is attached as Exhibit 2.

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5.

This Court has jurisdiction under ORS 250.296(1) and Portland City Code § 2.04.070 to review the ballot title because Petitioners filed this Petition not later than the seventh business day after the ballot title for the Measure was filed with the City Auditor.

6.

Petitioners are dissatisfied with the ballot title. The ballot title is insufficient, not concise, and unfair, and it fails to meet the requirements of ORS 250.035 and PCC 02.04.060 B for the following reasons:

a. The caption is both insufficient and unfair for the following reasons:

(1) The caption does not reasonably identify the subject matter of the Measure as required by PCC 2.04.060 B.1 because the Measure does not, as the caption states, concern incidental use of non-Bull Run lands—which is already permitted by law—but, rather, the Measure concerns the source of funding for spending on unrelated uses of non-Bull Run lands owned by the Water Bureau.

(2) The caption is drafted confusingly and is not grammatically correct. The caption uses a comma in place of the preposition “of” rather than in place of the conjunction “and.” The result is an independent clause followed by a dependent clause with no appropriate grammar or language connecting the two. This structure, which reads like a typographical error, is likely to confuse or mislead Portland voters.

b. The question is insufficient for the following reasons:

(1) The question carries forward the problems of the caption and continues to emphasize the incidental uses themselves—which are already permitted by law—over the source of funding to support those incidental uses, which is what the Measure would change.

1 (2) The question does not plainly phrase the “chief purpose” of the Measure
2 as required by PCC 2.04.060 B.2 because the purpose of the Measure is
3 not, as stated in the question, “to allow incidental public use of City lands
4 outside the Bull Run Watershed” but, rather, to overturn a decision made
5 by Presiding Judge Stephen Bushong in 2017 protecting the rights of city
6 ratepayers under the existing Portland City Charter. Comments made by
7 the Portland City Council in the debate preceding the Measure’s referral,
8 including those made by the sponsor and chief drafter of the Measure,
9 Commissioner Amanda Fritz, and Water Bureau staff’s presentation,
10 confirm that this is the “chief purpose” of the Measure.

11 c. The summary is insufficient, not concise, and unfair for the following reasons:

12 (1) The summary carries over the problems of the previous portions of the
13 ballot title because the summary continues to emphasize the incidental
14 uses themselves—which are already permitted by law—over the source of
15 funding to support those incidental uses, which is what the Measure would
16 change.

17 (2) The summary does not, as required by PCC § 2.04.060 B.3, summarize the
18 Measure and its major effects because the summary does not describe the
19 Measure’s most major effect: that the City Council will be permitted to
20 increase costs to the Water Fund occasioned by unrelated uses. Rather,
21 the summary says “the public’s incidental use may result in associated
22 costs to the Water Fund,” which is speculation about a secondary effect.
23 The summary must identify the Measure’s direct, actual, major effects.

24 (3) The summary unfairly elevates some effects of the Measure over other
25 effects of similar significance, which biases some voters in favor of the
26 Measure’s passage instead of summarizing the Measure accurately.

- 1 (4) The summary states that the Measure will not impact lands in the Bull Run
2 Watershed Closure Area; that statement is not a “major effect” of the
3 Measure because it concerns an effect that the Measure will not have.
4 There are innumerable effects that the Measure will not have, and none of
5 them should be described in the summary.
- 6 (5) The summary makes an incorrect statement of law when it states that the
7 Measure will “clarify[] Council authority to permit or prohibit incidental
8 uses by the general public of City lands controlled by the Water Bureau”
9 because the Council’s authority needs no clarification. The law is already
10 clear concerning the City Council’s authority to allow incidental uses; the
11 law is also clear, as determined by Judge Bushong in 2017, that the City
12 Council cannot charge the costs of facilitating incidental uses to the Water
13 Fund. Thus, the Measure does not, as the summary states, “clarify[]
14 Council authority”; the Measure changes the City Council’s authority.
- 15 (6) Finally, the operation of the Americans with Disabilities Act is not one of
16 the Measure’s “major effects.” The summary should not describe how the
17 Americans with Disabilities Act operates any more than it should describe
18 how the City’s appropriations ordinances operate. The summary has 175
19 words in which to describe the Measure and its major effects; the statutory
20 schemes operating in the background regardless of whether the Measure
21 passes or not do not fall within the scope of the summary as it is defined in
22 PCC 02.04.060 B.3.

1 WHEREFORE, Petitioner prays for a judgment as follows:

2 1. Declaring the measure title to be insufficient, not concise, and unfair, and not
3 conforming to the requirements of ORS 250.035 or PCC 20.04.060 B;

4 2. Certifying to the City Auditor a ballot title that conforms to the requirements of
5 ORS 250.035 and PCC 20.04.060 B, giving due consideration to a proposed title which
6 Petitioners will suggest in their briefing;

7 3. Awarding Petitioners their costs and disbursements; and

8 4. Awarding any other relief the Court considers just and equitable.

9
10 DATED this 3rd day of August, 2020.

11 DAVIS WRIGHT TREMAINE LLP

12
13 By: s/ John DiLorenzo, Jr.

14 John DiLorenzo, Jr., OSB # 802040

15 Evan R. Christopher, OSB #183214

16 Telephone: 503-778-5328

17 Facsimile: 503-778-5299

18 E-mail: johndilorenzo@dwt.com

19 Email: evanchristopher@dwt.com

20
21 Attorneys for Petitioners
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CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 11

SPECIAL SERVICES

ARTICLE 1. WATER WORKS**Section 11-101. General Authority.**

The City may construct, rehabilitate, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all infrastructure plants and facilities found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may permit or prohibit incidental use by the general public of such lands outside of the Bull Run Watershed Closure Area; may maintain such lands when used for incidental purposes; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

RESOLUTION No. As Amended

Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

WHEREAS, the Portland City Charter authorizes the City to take certain actions and make necessary expenditures regarding the provision of water services to the City including, but not limited to, authority to acquire, own, and possess real property within and without the limits of the City; and

WHEREAS, City-owned lands outside the Bull Run Watershed Closure Area that are necessary for the provision of water services are often located in areas where the public could benefit from use of the land for purposes that are compatible and do not interfere with the City's use of the land for the provision of water services; and

WHEREAS, the City Charter amendment clarifies the City Council's authority to permit or prohibit incidental uses for such City-owned lands; and

WHEREAS, the public's incidental use of certain City-owned lands may result in associated costs to the Water Fund related to the public's use of the land; and

WHEREAS, Portland voters should be allowed to engage in decisions related to the public's incidental use of City-owned lands; and

WHEREAS, the public should determine, in partnership with the Water Bureau and the City Council, whether incidental public uses of public property owned by the Water Bureau, is appropriate; and

WHEREAS, Water Bureau lands with incidental uses by the general public must be brought into compliance with accessibility requirements of the Americans with Disabilities Act to ensure equitable public access; and

WHEREAS, a referral to the ballot on this issue on November 3, 2020, would allow for all Portland voters to provide input in a timely manner;

NOW, THEREFORE, BE IT RESOLVED, that the Council submits a Measure for an Act, amending the City of Portland Charter, Chapter 11, attached hereto as Exhibit A, to the legal voters of the City of Portland, Oregon, for their adoption or rejection at the election in the City of Portland, Multnomah County, Clackamas County and Washington County to be held on November 3, 2020; and

BE IT FURTHER RESOLVED, that the City Council submits the ballot title for the November 3, 2020 ballot, attached hereto as Exhibit B; and

BE IT FURTHER RESOLVED, that should the proposed Charter amendment be approved by the voters, the Water Bureau shall conduct a public process in partnership with the Portland Utility Board to recommend Code language for adoption by the City Council prior to June 30, 2021 specifying approved incidental uses, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that, should the proposed Charter amendment be approved by the voters and after adoption of implementing Code specifications, the Portland Water Bureau shall report annually to the Portland Utility Board and City Council all Water Fund expenditures associated with the public's incidental use of City-owned lands, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that the City Council directs the City Auditor to publish the ballot title as shown in Exhibit B in accordance with City Code; and

BE IT FURTHER RESOLVED, that the sponsoring elected official may submit an explanatory statement to the City Auditor for publication in the Voters' Pamphlet; and

BE IT FURTHER RESOLVED, that the City Auditor is directed to forward to the Multnomah, Washington, and Clackamas County Elections Office all material necessary to place this measure on the November 3, 2020 election ballot.

Adopted by the Council: **July 22, 2020**

Commissioner Amanda Fritz
Prepared by: Astrid Dragoy
Date Prepared: July 21, 2020

Mary Hull Caballero
Auditor of the City of Portland
Keelan McClymont
Deputy

615

Agenda No.
RESOLUTION NO.
Title

As Amended

Refer amendment to the City Charter regarding Public use of City Lands for Permissive Secondary Purposes (Resolution)

| | |
|--|--|
| INTRODUCED BY Commissioner/Auditor: Commissioner Fritz | CLERK USE: DATE FILED <u>July 14, 2020</u> |
| COMMISSIONER APPROVAL | <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u>Keelan McClymont</u> Deputy</p> <p>ACTION TAKEN:</p> |
| Mayor—Finance & Administration – Wheeler | |
| Position 1/Utilities - Fritz <i>Amanda Fritz</i> | |
| Position 2/Works - Vacant | |
| Position 3/Affairs - Hardesty | |
| Position 4/Safety - Eudaly | |
| BUREAU APPROVAL | |
| Bureau: Commissioner Fritz Bureau Head: | |
| Prepared by: Astrid Dragoy Date Prepared: July, 14, 2020 | |
| 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 /S/ MKH 7/14/2020 | |
| Council Meeting Date July 22, 2020 | |

| |
|---|
| AGENDA |
| TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: <u>15</u> (for presentation, testimony and discussion) |
| CONSENT <input type="checkbox"/> |
| REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <u>15</u> (for presentation, testimony and discussion) |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: | |
|--------------------|---------------------------------|------|
| | YEAS | NAYS |
| 1. Fritz | ✓ | |
| 2. Vacant | | |
| 3. Hardesty | ✓ | |
| 4. Eudaly | ✓ | |
| Wheeler | | |

Exhibit 2
Page 3 of 8

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 11

SPECIAL SERVICES

ARTICLE 1. WATER WORKS**Section 11-101. General Authority.**

The City may construct, rehabilitate, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all infrastructure ~~plants and facilities~~ found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may permit or prohibit incidental use by the general public of such lands outside of the Bull Run Watershed Closure Area; may maintain such lands when used for incidental purposes; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

BALLOT TITLE

CAPTION:

Amends Charter: Authorizes incidental public use, lands outside Bull Run.

QUESTION:

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau , provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council. The public's incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.

BALLOT TITLE

CAPTION:

Amends Charter: Authorizes incidental public use, ~~non-~~lands outside Bull Run ~~lands~~.

QUESTION:

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau ~~for use in the City's water system~~, provided the lands are outside of the Bull Run Watershed Closure Area.

Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council.

The public's incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.

IMPACT STATEMENT

Legislation title: Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

Contact name: Astrid Dragoy

Contact phone: 503-823-6426

Presenter name: Astrid Dragoy, Gabriel Solmer, Cecelia Huynh

Purpose of proposed legislation and background information:

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau for use in the City's water system, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands. The public's incidental use may result in associated costs to the Water Fund, including compliance with the Americans with Disabilities Act. The measure will not impact City lands in the Bull Run Watershed Closure Area.

Financial and budgetary impacts:

- As this is a general election year, there are minimal costs to the City to file this ballot measure with the county.
- This measure, if approved would permit rate-payer funds to be used in lieu of General Funds for ADA compliance. The estimate that was not approved in the FY 2020-21 budget request was \$1.5 million for ADA compliance.
- The Water Bureau is currently spending approximately \$11,500 in General Funds on hydroparks maintenance. This Charter change would permit rate-payer funds to be used in lieu.
- Whether there will be an impact from rates if the measure passes will be determined by which incidental uses are approved by Council in the subsequent Code process, and on timing of ADA compliance. The plan in the FY 2020-21 Budget was to do them over five years, which could be accommodated within existing rates.
- The passing of this measure will not require additional staff.

Community impacts and community involvement:

The 2014 Citywide Transition Plan identified 580 Americans with Disabilities Act barriers at Water Bureau Facilities accessed by the public. The schedule for barrier removal in the Transition Plan has not been met as rate payer funds cannot be used for much of this work. This Charter amendment would allow the Bureau to make improvements for compliance with the Americans with Disabilities Act using ratepayer funding for removal of barriers.

HydroParks are located at:

Gilbert HydroPark - 13803 SE Center Street

Halsey HydroPark - NE 148th and Halsey Street

Hazelwood HydroPark - 1017 NE 117th Ave

Marigold HydroPark - 8925 SW 15th Ave

Pittman Addition HydroPark - N Concord and N Going Court

Sabin HydroPark - 1907 NE Skidmore

Texas HydroPark - 3109 SW Texas Street

Except for the two small locations in SW, these facilities are all in areas with high equity scores and significant populations of people of color and families experiencing low incomes. Several are in parks-deficient areas. Nearby residents have expressed strong support for community use of the sites and for the basic amenities provided.

In addition, the Water Bureau maintains Dodge Park in Clackamas County and allows incidental use there by the general public including access to the Sandy River. The area is sparsely populated and there is no data on the demographics of visitors. Many of the needed ADA improvements are at Dodge Park.

The Charter amendment has been discussed and endorsed by the Portland Utility Board recently, and an earlier version was released for public review in 2019. The text of the proposed Charter Change and explanatory statement are posted on Commissioner Fritz's office blog, with encouragement to email her staff with questions and comments.

100% Renewable Goal:

- Not applicable

Budgetary Impact Worksheet

Does this action change appropriations?

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

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

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITION FOR DIFFERENT MEASURE TITLE** on:

Tracy Reeve, OSB #891123
City Attorney
Portland City Attorney's Office
1221 SW 4th Ave., Rm. 430
Portland, OR 97204
Telephone: (503) 823-4047
Facsimile: (503) 823-3089
tracy.reeve@portlandoregon.gov

Respondent

by emailing a copy thereof to said attorney at his/her last-known email address as set forth above.

by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

Dated this 3rd day of August 2020.

DAVIS WRIGHT TREMAINE LLP

By: *s/ John DiLorenzo, Jr.*

John DiLorenzo, Jr., OSB # 802040
Evan R. Christopher, OSB #183214
Telephone: 503-778-5328
Facsimile: 503-778-5299
E-mail: johndilorenzo@dwt.com
Email: evanchristopher@dwt.com

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 11

SPECIAL SERVICES

ARTICLE 1. WATER WORKS**Section 11-101. General Authority.**

The City may construct, rehabilitate, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all infrastructure plants and facilities found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may permit or prohibit incidental use by the general public of such lands outside of the Bull Run Watershed Closure Area; may maintain such lands when used for incidental purposes; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

If passed, this City Charter amendment would clarify the City Council's authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau. Incidental public uses – when approved by the City Council after a public engagement process – may include neighborhood green spaces, community gardens, picnic benches, play equipment or other uses that do not conflict with the primary drinking water purpose of these lands. The proposed amendment will not impact City lands in the Bull Run Watershed Closure Area, which would remain closed to the general public.

The public's incidental use may result in associated costs to the Water Fund, which is the Water Bureau's operating fund. Associated costs may include maintenance and improvements to lands and facilities and compliance with state and federal laws, including the Americans with Disabilities Act.

If the amendment is not passed, the City Council's authority to permit or prohibit incidental public use on non-Bull Run Watershed lands would continue to be implied by the City Charter, and management of these lands would be reliant on General Fund discretionary funds.

(184 words)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

KENT CRAFORD, FLOY JONES, AND
ERIC FRUITS,

Petitioners,

v.

TRACY REEVE,

Respondent.

Case No. 20CV27107

**ORDER GRANTING PETITION AND
CERTIFYING BALLOT TITLE**

THIS MATTER came before the Court for hearing on August 31, 2020 on Petitioners' Petition for Different Measure Title and Explanatory Statement. Petitioners appeared through their attorneys John DiLorenzo and Evan Christopher. Respondent Portland City Attorney Tracy Reeve appeared through Deputy Portland City Attorney Maja Haium.

The case is presented pursuant to ORS 250.296 and Portland City Code (PCC) § 2.04.070 on a petition for review of a ballot title (the "Ballot Title") prepared by Portland City Council for a proposed amendment to Chapter 11 of the Portland City Charter. Petitioners argue that the Ballot Title is insufficient, not concise, and unfair, and fails to meet the requirements of ORS 250.035 and PCC 02.04.060 B. Petitioners present a proposed ballot title that they prefer, and that they argue complies with the applicable statutory standards. Respondent also presents a revised ballot title that it prefers, and that it avers complies with the applicable statutory standards.

The Court, having reviewed and considered all pleadings filed by the parties, oral argument, and the entire court record, finds that the Ballot Title is insufficient, not concise, and unfair. The Court makes the same finding with respect to each of the parties' proposed ballot

titles. Pursuant to ORS 250.296(1), the Court hereby certifies to the city elections officer the following ballot title:

CAPTION

Amends Charter: Authorizes new Water Fund spending; addresses land use.

QUESTION

Shall Charter allow Water Fund to finance incidental public uses of certain Water Bureau lands, and explicitly authorize these uses?

SUMMARY

The Water Fund is funded by water service ratepayers and used only to pay costs of providing water service.

A judge recently found that the City Charter does not authorize City Council to spend Water Fund monies on any uses of Water Bureau land not “reasonably related” to providing water service to residents.

Measure would amend the Charter to state explicitly that Council may spend Water Fund monies on general public “incidental uses” (undefined) of Water Bureau lands other than the Bull Run Watershed Closure Area. Measure would allow Council to raise water rates to pay for costs created by such incidental uses.

Measure would also amend the Charter to state explicitly that Council may permit or prohibit such uses.

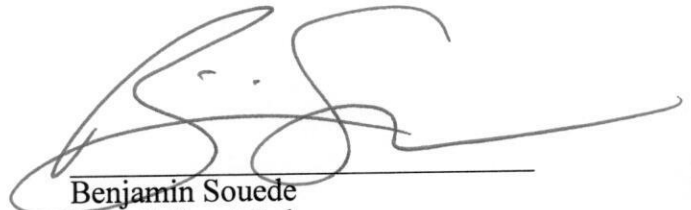
Incidental uses may include neighborhood green spaces and community gardens. Current examples of such uses include recreational uses of Dodge Park, Powell Butte Nature Park, and other “HydroParks.”

Costs related to incidental public uses may include maintaining the lands and facilities, and ensuring compliance with state and federal laws, including the Americans with Disabilities Act.

Counsel for Petitioners will submit an appropriate form of judgment consistent with this opinion.

Dated this 1st day of September, 2020.

DATED: September 1, 2020.



Benjamin Souede
Circuit Court Judge



P O R T L A N D
CITY AUDITOR
Elections

REPORT TO COUNCIL

DATE: December 2, 2020

TO: City Council

FROM: Auditor Mary Hull Caballero

SUBJECT: Certify results of November 3, 2020 Municipal Non-Partisan General Election, candidates elected, and proclaim measures approved (Report)

Tim Scott, Director of Elections for Multnomah County, has filed in the Office of the City Auditor the abstract of votes cast at the Municipal Non-Partisan General Election held in the City of Portland on November 3, 2020 for City of Portland candidates and measures as follows:

CANDIDATES

Two candidates appeared on the ballot for a run-off election for offices of Mayor and Commissioner, Position No. 4.

| Mayor | Multnomah | Clackamas | Washington | Total | % |
|--------------------|------------------|------------------|-------------------|----------------|---------------|
| Ted Wheeler | 166,543 | 265 | 452 | 167,260 | 46.07 |
| Sarah Iannarone | 147,437 | 152 | 375 | 147,964 | 40.76 |
| Write-In | 47,703 | 57 | 72 | 47,832 | 13.17 |
| TOTAL | 361,683 | 474 | 899 | 363,056 | 100.00 |

| Commissioner Pos. 4 | Multnomah | Clackamas | Washington | Total | % |
|----------------------------|------------------|------------------|-------------------|----------------|---------------|
| Mingus Mapps | 186,700 | 288 | 398 | 187,386 | 55.59 |
| Chloe Eudaly | 145,909 | 99 | 391 | 146,399 | 43.43 |
| Write-In | 3,252 | 13 | 11 | 3,276 | 0.97 |
| TOTAL | 335,861 | 400 | 800 | 337,061 | 100.00 |

Per City Code Section 2.08.040, Ted Wheeler has been re-elected to the office of Mayor and Mingus Mapps has been elected to Commissioner, Position No. 4.



MEASURES

Two measures, qualifying for the ballot by City-Council referral, were approved as follows:

Measure 26-213

Ballot title caption: Restore recreation programs, parks, nature, water through five-year levy.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 234,942 | 226 | 547 | 235,715 | 63.94 |
| No | 132,315 | 285 | 358 | 132,958 | 36.06 |
| TOTAL | 367,257 | 511 | 905 | 368,673 | 100.00 |

Measure 26-217

Ballot title caption: Amends Charter: Authorizes new, independent community police oversight board.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 300,486 | 314 | 727 | 301,527 | 81.58 |
| No | 67,713 | 192 | 183 | 68,088 | 18.42 |
| TOTAL | 368,199 | 506 | 910 | 369,615 | 100.00 |

One measure, qualifying to the ballot by City-Council referral was rejected as follows:

Measure 26-219

Ballot title caption: Amends Charter: Authorizes new Water Fund spending; addresses land use.

| Vote | Multnomah | Clackamas | Washington | Total | % |
|--------------|------------------|------------------|-------------------|----------------|---------------|
| Yes | 165,868 | 151 | 418 | 166,437 | 47.76 |
| No | 181,323 | 326 | 409 | 182,058 | 52.24 |
| TOTAL | 347,191 | 477 | 827 | 348,495 | 100.00 |

REGISTERED VOTERS

According to data available from all three counties at the time of certification, the number of total registered voters in the City of Portland on November 3, 2020 was 463,900.