



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF SEPTEMBER, 2011 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fish, Fritz, Leonard and Saltzman, 5.

Commissioner Leonard arrived at 9:35 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney; and Steve Peterson, Sergeant at Arms.

Item No. 948 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
<p>929 Request of Michael Krupp to address Council regarding issues of fairness, justice and truth as it applies to administration of the municipality (Communication)</p>	PLACED ON FILE
<p>930 Request of Barbara Boose to address Council regarding root barrier design (Communication)</p>	PLACED ON FILE
<p>931 Request of Mark Morehouse to address Council regarding busking and Saturday Market security (Communication)</p>	PLACED ON FILE
<p>CONSENT AGENDA – NO DISCUSSION</p> <p>Mayor Sam Adams</p> <p>*932 Authorize a grant agreement with Outside In in an amount not to exceed \$65,000 to operate the Injection Drug Users Health Services Program (Ordinance) (Y-5)</p>	184845
<p>Bureau of Planning and Sustainability</p>	

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<p>933 Amend an Intergovernmental Agreement with the Port of Portland for planning services to prepare a West Hayden Island plan and possible annexation proposal and provide for payment (Second Reading Agenda 918; amend Contract No. 30000526)</p> <p>(Y-5)</p>	<p>184846</p>
<p>Bureau of Police</p>	
<p>*934 Accept a grant in the amount of \$648,238 and appropriate \$599,339 for FY 2011-12 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance FY11 Edward Byrne Memorial Justice Assistance Grant Program to prevent or reduce crime and violence (Ordinance)</p> <p>(Y-5)</p>	<p>184847</p>
<p>*935 Accept a grant in the amount of \$199,883 and appropriate \$151,568 for FY 2011-12 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for the FY11 Intellectual Property Crime Enforcement Program (Ordinance)</p> <p>(Y-5)</p>	<p>184848</p>
<p>Bureau of Transportation</p>	
<p>*936 Authorize an Intergovernmental Agreement with Oregon Department of Transportation and accept grant for the design and right-of-way of the NE Columbia Boulevard at OR 99E-MLK Jr Blvd project (Ordinance)</p> <p>(Y-5)</p>	<p>184849</p>
<p>937 Revise ordinance to replace and to clarify conditions for the vacation of a portion of SE Bush St and a portion of SE 100th Ave for the Emergency Coordination Center construction project (Ordinance; amend Ordinance No. 184419)</p>	<p>PASSED TO SECOND READING SEPTEMBER 14, 2011 AT 9:30 AM</p>
<p>938 Designate a parcel of City-owned property located at the intersection of SE Glenwood St and SE McLoughlin Blvd as public right-of-way for road purposes and assign it to the Bureau of Transportation (Second Reading Agenda 921)</p> <p>(Y-5)</p>	<p>184850</p>
<p>939 Designate a parcel of City-owned property located at the intersection of SW Spring St and SW Vista Ave as public right-of-way and assign to the Bureau of Transportation (Second Reading Agenda 922)</p> <p>(Y-5)</p>	<p>184851</p>
<p>Office of Management and Finance</p>	
<p>940 Accept bid of Insituform Technologies, Inc. for the Westside and Eastside Sewer Rehabilitation Project for \$2,673,603 (Procurement Report – Bid No. 113021)</p> <p>(Y-5)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p>*941 Create a new Nonrepresented classification of Training and Development Manager and establish a compensation rate for this classification (Ordinance)</p> <p>(Y-5)</p>	<p>184856</p>

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<p>*942 Amend Intergovernmental Agreement with State of Oregon, Department of Transportation to increase contract by \$1,340,583 to provide additional improvements to Union Station (Ordinance; amend Contract No. 30002272) (Y-5)</p>	<p>184852</p>
<p style="text-align: center;">Commissioner Randy Leonard Position No. 4</p>	
<p style="text-align: center;">Portland Fire & Rescue</p>	
<p>*943 Accept and appropriate a grant in the amount of \$32,000 from the Oregon Office of Emergency Management - Military Department FY 2010 State Homeland Security Grant Program for Hydraulic Heavy Rescue Equipment (Ordinance) (Y-5)</p>	<p>184853</p>
<p style="text-align: center;">Water Bureau</p>	
<p>944 Amend contract with Murray, Smith & Associates, Inc. to increase compensation and increase scope of work for Forest Park Low Tank (Ordinance; amend Contract No. 30001295)</p>	<p style="text-align: center;">PASSED TO SECOND READING SEPTEMBER 14, 2011 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Amanda Fritz Position No. 1</p>	
<p style="text-align: center;">Office of Healthy Working Rivers</p>	
<p>945 Extend the Intergovernmental Agreement with Oregon Consensus-National Policy Consensus Center, Portland State University to December 31, 2011 to assess issues related to sedimentation and the need for maintenance dredging in Portland rivers (Ordinance; amend Contract No. 30002174)</p>	<p style="text-align: center;">PASSED TO SECOND READING SEPTEMBER 14, 2011 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Nick Fish Position No. 2</p>	
<p style="text-align: center;">Portland Parks & Recreation</p>	
<p>*946 Authorize Procurement Services to negotiate and execute a contract for construction and payment of the Flavel Maintenance Yard Improvements (Ordinance) (Y-5)</p>	<p>184854</p>
<p>947 Accept a grant in the amount of \$1,300,000 and authorize an Intergovernmental Agreement with TriMet for Wetland Mitigation in the Central District (Second Reading Agenda 924) (Y-5)</p>	<p>184855</p>

REGULAR AGENDA

**Commissioner Nick Fish
Position No. 2**

Portland Housing Bureau

948 Terminate Tax Exemptions for properties under the Single-Family New Construction and Residential Rehabilitation, Transit Oriented Development, and New Multiple-Unit Housing Limited Tax Programs (Resolution)

(Y-5)

36877

At 10:02 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF SEPTEMBER, 2011 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Fritz, Presiding 2:00-2:02 p.m., Mayor Adams, Presiding at 2:02 p.m.; Commissioners Fish, Fritz, Leonard and Saltzman, 5.

Mayor Adams arrived at 2:02 p.m.
Commissioner Leonard arrived at 2:06 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Roland Iparraguirre, Deputy City Attorney; and Keith Moore, Sergeant at Arms.

<p>949 TIME CERTAIN: 2:00 PM – Amend Time, Place and Manner Regulations of Establishments that Sell and Serve Alcoholic Beverages Code, to expand authority to allow certain activities be considered nuisance activities and make changes to the violation and abatement process (Ordinance introduced by Commissioner Fritz; amend Code Chapter 14B.120) 1 hour requested</p>	<p>Disposition:</p> <p>PASSED TO SECOND READING SEPTEMBER 14, 2011 AT 9:30 AM</p>
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At 2:20 p.m., Council recessed.

September 8, 2011
A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 8TH DAY OF SEPTEMBER, 2011 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fritz, Leonard and Saltzman, 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Kathryn Beaumont, Chief Deputy City Attorney; and Greg Goodwind, Sergeant at Arms.

<p>950 TIME CERTAIN: 2:00 PM – Appeal of Cottonwood Capital Property Management LLC, Frank Fleck and Gary Gossett against Hearings Officer's decision to approve with conditions the application of Recology Oregon Material Recovery, Inc. for a conditional use to establish a waste-related use that accepts and processes food waste that is blended with yard debris, within a fully enclosed building at 6400 SE 101st Avenue (Hearing; Previous Agenda 927; LU 10-194818 CU AD) 1 hour requested</p> <p>Motion to continue to October 5, 2011 at 2:00 p.m.: Moved by Mayor Adams and seconded by Commissioner Fritz. (Y-4)</p>	<p>Disposition:</p> <p>CONTINUED TO OCTOBER 5, 2011 AT 2:00 PM TIME CERTAIN</p>
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At 2:02 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

For a discussion of agenda items, please consult the following Closed Caption File.

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Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

SEPTEMBER 7, 2011 9:30 AM

Adams: Good morning, Karla.

Moore-Love: Good morning.

Adams: Can you please call the roll? [roll call]

Adams: Quorum is present. [gavel pounded] we shall proceed. I'm happy today to read the following proclamation that will also be presented on september 11th. Whereas, september 11th, 2011, is recognized as a day of solemn commemoration of the events of september 11th, 2001, and a day to come together as a nation, and 3,000 innocent civilians were killed in the heinous attacks of september 11th, 2001, and countless fire departments and police departments and governmental officials and workers and medical personnel and volunteers responded immediately and, whereas, the fire department of new york suffered 343 fatalities on september 11th, 2001, the largest loss of life of any emergency response agency in united states history and, whereas, the port authority police department suffered 37 fatalities in the attack, the largest loss of life of any police force in united states history on a single day and, whereas, the Portland -- sorry, the new york police department suffered 23 fatalities and members of the Portland police and fire bureaus traveled to new york to assist with recovery efforts in the city and 10 years later, thousands of men and women in the united states armed forces remain in harm's way defending the united states against those who seek to threaten the united states. And, whereas, on the 10th anniversary of this tragic day the thoughts of the people of the united states and the city -- are with the city and the victims and survivors of september 11th, 2001, and the city of Portland and residents recognized the Portland citizens who traveled to new york to help in the recovery efforts including four Portland firefighters, members of the Oregon state crime lab and many others. And, therefore, i, sam Adams, mayor of the city of Portland do hereby proclaim september 11th, 2011, as a day of september 11th, 2001, commemoration in Portland as a day of remembrance to those lost on september 11th, 2001, and honor the heroic actions of the first responders and law enforcement and volunteers and countless others who aided the innocent victims of those attacks and doing so, bravely risked and often gave their own lives. We'll have a moment of silence.

Adams: Thank you. I think commissioner Saltzman, you wanted to mention your event.

Saltzman: Thank you, mayor, for that proclamation and since we're on tv. We're reading the names of the victims of 9/11 starting at 11:30 every day this week. In front of city hall on southwest fourth and the public is welcome.

Fish: Mayor, can I also observe on the 10th anniversary, the delegation of Oregonians will be headed back to new york. The flight for freedom that you alluded to in the proclamation and one of the cornerstones of the trip is going to be a concert for peace and unity at the cathedral of st. John the divine in New York. And the Portland gay men's chorus will be performing with their counterparts in new york. The cathedral is the home of the new york firefighters' memorial and I want to thank all of the citizens in Oregon who put together the flight for freedom 10 years ago and now invited back by mayor bloomberg to participate in the 10th anniversary.

Adams: Thank you all very much. Karla, we'll begin with communications, please read the title for 929.

Item 929.

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Adams: Hi, welcome back.

Michael Krupp: Thank you. Politics fall somewhere between the mildly amusing and disgusting. This is clearly evidenced by our city council. The usually political success requires one to swim upstream in the sewers until one's head emerges in the vicinity of city hall. This is why i'm not surprised that commissioner Leonard and you put \$2 million into the ground as tributes to your masters and subterranean goals. What was it really, commissioners? A big crack pipe or did you think the voters were smoking this stuff? Now with the irs and other agencies breathing down your necks, mr. Leonard made the astute political decision to run like hell away from his career of many years and the mayor, the get along go along kind of guy that everyone loves doing business with, apparently remembered a appointment that will keep him out of office for his remaining lifetime and if any of you three -- better to salvage the shreds of your careers and -- the shreds of your career and go and work for a crony and you might adopt the heads between the knees taught to children in the event of an atomic attack. The -- it's crushing the people by attempting to reverse the tendency of life to retire and growth. Together, we comprise the tree of government. The city is the root and we're the trunk. The counties, the branch, state branchless and the feds is the foliage that results from a living thriving government of people by the people. It is seasonal and indicates the health of our tree of government and it seems that today we must reverse the direction of the sap's flow. Instead of pressing down from above, causing us to suffer from high sap pressure, we'll move it upwards and redefining the biology of this dying tree, which indeed grows from the ground up and we're told that mercenaries are a painful necessity at times. Certainly not in city hall. So address the demise of the old guard and raise money for the treasury. I challenge the god of war to a fair fight and give him three months to research what that means. I call this exhibition fight mom in Portlandia. Mother will allow nothing less. Thank you.

Adams: Thank you for your testimony.

Krupp: God bless america.

Adams: Please read the title for item number 930.

Item 930.

Adams: Hi, welcome to city council. Go ahead and have a seat.

Barbara Boose: Thank you for letting me be here today. As a follow-up from my august 2nd meeting, is a list of the people who I have worked with and -- in the city of Portland in regards to my root barrier design, and the intrusive trees and bushes from the 4152 n.e. 20th address and a attempted to send pictures and my attorney has the pictures and really I haven't had a chance to ask him about the pictures. You're welcome to see those pictures. I do not have cable internet, so I just have a problem sending a bunch of pictures over to city hall without the consent of my attorney. And we have a problem because of the poor drainage next door, doing a direct dig can collapse the whole fence because of the poor drainage because there's so much humus and debris that it's going down and into my foundation and I have a picture of a four-foot black cottonwood tree that will grow up to four feet in diameter and it's a few feet from my foundation on his side. And these are things that charles myrick, when he came out and met with my contractor, this is what he saw and I was told by the arborist that -- that it's -- it's much better to -- to remove the trees because -- because building the root barrier design is going to kill them and it's an insurance question. That's why i'd like to invite nick Fish and mr. Saltzman to see the situation. Now, um, before -- and i've included the -- oh, i'm next to meth houses and the u.s. Bank and my attorney has suggested to present this to you because my life is in danger. I fell because of the meth being in the air. And so i've got good ideas for job creation but i'm really caught on this problem and i'm really not trying to be caught on this problem but it's taken two months to recuperate from the fall.

Adams: Thank you for your testimony. I know folks are working on it.

Boose: Well, we really need surveillance and I don't know -- is this a tv up here? So I -- my attorney had me put it in writing the addresses --

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Adams: Right, we have that in front of us.

Boose: And so, um --

Adams: Thank you for your testimony.

Boose: And so -- ok.

Fish: Mayor, i've asked the urban forester to look into this when miss boose was here the last time. I made the introduction and we'll share this information with them and ask them to follow up.

Boose: The urban forester?

Fish: Yes.

Boose: Do you have a card, mr. Fish?

Fish: I can take you to my office and give you my card.

Boose: Ok. I'd like to work directly with you, mr. Saltzman, if I could.

Saltzman: Well, we're working with -- you've talked to matt in my office and we're aware of your situation.

Adams: Feel free to follow commissioner Fish and --

Fish: If you can wait for a second, i'm next up and i'll have someone from my office come out with a card and give it to you and we'll follow up.

Boose: Will you speak directly with me?

Fish: Yes, ma'am.

Boose: Thank you, sir.

Adams: Please read the title for communications item 931.

Item 931.

Moore-Love: He notified us he had to cancel and he'll meet individually with your offices.

Adams: Anyone want to pull any items from the consent agenda?

Fritz: 941, please.

Adams: Anyone else? Karla, please call the vote on the consent agenda.

Saltzman: Aye. **Leonard:** Aye. **Fritz:** Aye. **Fish:** Aye. **Adams:** Aye.

Fritz: The mayor has asked me to take over as president of the council. Please read the title for item 948.

Item 948.

Fritz: Thank you, commissioner Fish.

Fish: This is the only item on the regular agenda and must be something of a record. And andrea matthiessen and her team are here to walk us through what is a regular occurrence of council to monitor limited tax abatements in our community and we get reports relating to those exemptions that no longer qualify and the Portland housing bureau seeks authority to take appropriate action. Andrea?

Andrea Matthiessen: Good morning, as the resolution, we're here today to terminate 56 tax exemptions, 38 are single family and three are nonprofit and they're tax exemptions administered by the Portland housing bureau with the objective of increasing affordable housing in the community. These tax exemptions are activated by builders as an incentive to construct affordable housing and then passed on to the qualified home buyers as a way to increase the affordability of the units. And the bureau conducts regular monitoring and auditing of the individuals and homeowners in those units to ensure ongoing compliance with the program requirements primarily that those units remain owner-occupied and that the home buyers who move into the units income qualify and so as part of that exercise, we have identified as I said, 56 units that are out of compliance with program requirements. Most of those are indicated as not being owner-occupied. Some have transitioned ownership in the -- and the new buyers do not qualify in terms of income and so those are being terminated. So the annual value for each unit of that terminated tax exemption is approximately \$1,600 and so the annual value for all 56 terminations we're proposing is about \$85,000 and these

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are 10-year tax exemptions and so of those 56, terminations we're proposing, they're in various stages of their 10-year tax exemptions.

Fish: Briefly describe the process we go through to give notice to the affected property owners and appeals under our process.

Matthiessen: The bureau contacts each household whose exemption we're proposing to terminate. They get a letter from the city, asking them for documentation, letting them know that our records are indicating a possible compliance problem. So they're given, then, a period of time to provide that. If we don't hear back from them or if the documentation is not satisfactory, then they're provided with a certified mailed letter indicating our intent to terminate the tax exemption. Then they're also given an opportunity to appeal that proposed termination directly to phb in our offices. And so, we have handled a handful of those appeals prior to filing the resolution but there may be individuals present who we may want to confirm.

Fish: We confirm if anyone is here for the purpose of weighing in on an appeal. Any member of the public here?

Fritz: Do you want to do public testimony now?

Fish: Sometimes people will come it a public meeting within the past and come -- I don't believe anyone is here but if we could -- if you could inquire if anyone is here seeking to challenge a designation.

Matthiessen: Is there anyone here seeking to appeal a proposed termination?

Fish: We were not notified anyone would be coming but just in case. That's our presentation.

Fritz: Questions from council.

Saltzman: One of the columns says no acq response. What's that?

Matthiessen: That's the application to receive the tax exemption required on the part of a buyer when a property transitions ownership and we may grant an exemption to one household. They sell it and the subsequent household is required to submit an application and they do not always do that.

Fritz: Thank you very much. Anyone want to testify on this item? Pass it back to the mayor.

Adams: All right. And the --

Fish: Resolution, mayor?

Adams: No need to move. We will now -- please call the vote on resolution number 948.

Saltzman: Aye. **Leonard:** Aye.

Fritz: Thank you for your diligence following up on this and I want to mention thanks to margaret van vliet for her strong leadership and there will be others coming up to help thereafter. Aye.

Fish: Andrea, I want to thank you and your team for outstanding work in monitoring and administering the limited tax abatement programs. As my colleagues know, this is a function that the Portland housing bureau has assumed as part of the transfer of housing responsibilities from the Portland development commission, one of the strong messages we've received over the years from this council is that we need to be vigilant in making sure only people who qualify receive the benefit of this 10-year abatement. So we do robust oversight during those 10 years and coming to us today, you're identifying those property owners no longer eligible for a variety of reasons for the tax abatement. I believe it's actions like this that bolster public confidence in these programs which are after all designed to create opportunities for people who wouldn't have them to be homeowners and when someone is out of compliance, we have to take this difficult action. Thank you for your good work. Aye.

Adams: Great work. Thank you, commissioner Fish, for your leadership and staff for your follow-through. Aye so approved, we're in recess -- what?

Fritz: I pulled 941. Ok.

Adams: Please read the title for emergency ordinance 941.

Item 941.

David Rhys, Bureau of Human Resources: David Rhys from the bureau of human --

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Adams: Before you start, david, since commissioner Fish pulled it, sorry, Fritz pulled it, I would like her to explain why she pulled it so we focus your testimony on those issues.

Fritz: Thank you, mayor, we had a wonderful discussion last week about the office of equity and the potential staffing and the functions of the office and I wanted you to have an opportunity to explain what this position will and different from and complement the future work of the equity office.

Rhys: David Rhys, from the bureau of human resources. What the ordinance does is create a new classification of training and development manager, we've not had a professional in that position for approximately 10 years. There's a cost for creating the classification. We're reclassifying in terms of the maximum rates paid to the classifications in that position and there's an increase cost of \$15,000. But all costs will be paid out of the current budget. Anna, do you want to talk?

Anna Kanwit: We're creating this position to recreate, reinstitute a centralized training program. Every year, they have asked us to put back within the bureau of human resources a training program which we've not had for some time and this position would basically take the lead of that program and would be creating various trainings in response to consultations with the bureaus in terms of their needs. Do not see this -- I think obviously a collaborative partnership with the office of equity in terms of trainings that -- that office may see as necessary. Right now, as you know, human resources is responsible for providing the cultural competency training to managers and supervisors and employees and training on the rule that prohibits discrimination and harassment and retaliation based on a person's protected class and we see our office continuing to do that training but that's not the reason for creating this managerial position. It's to create a program to provide trainings to employees in a way that's cost-effective.

Fritz: What kinds of trainings? Can you give an example?

Kanwit: Some of the things that we are -- have been asked to do, some, we have started. Manager and supervisory training. Targeted on investigations. Discipline, but we're looking to perhaps -- looking at creating webinars on competence trainings that -- competency trainings provided to the bureau. How you coach, how you do performance evaluation and things like that. Career development training for employees to provide opportunities for them to move up in the organization or move to different jobs so the plan is -- one of the reasons we have this as an emergency, we want to open this recruitment next week so we can get a person on board within the next couple months and then we would be spending basically until the beginning of the fiscal year, working with the bureaus to determine what are the various trainings they would like us to develop and offer. So at this point, it's somewhat of a work this progress.

Fritz: Will it be internal or open to the general public recruitment?

Kanwit: Open.

Saltzman: I had one question that may be related. It's come to my attention we don't have a consistent tuition reimbursement program across the city. Each bureau does its own thing. Is there a possibility we could have a tuition reimbursement policy or is this something that the person would look into or is that your job.

Kanwit: No, we, commissioner -- [laughter] -- we have looked at that. Again about the same time, due to budget cuts that we eliminated our centralized program, a citywide reimbursement tuition program was also eliminated and it depends on the bureau, and you get a have and have-not. But that's one of the things we'll look at, whether or not that's something that would be well received and come back to council because --

Saltzman: When was it eliminated? We had one?

Kanwit: We did. It's about 10 --

Saltzman: At least.

Kanwit: At least 10 years ago, I think it was before I came to the bureau of human resources and that's about 11 years now. It's been some time.

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Saltzman: Ok, thank you.

Adams: Anyone wish to testify on this matter? Karla, please call the roll.

Saltzman: Aye. **Leonard:** Aye.

Fritz: Thank you for the explanation. Aye.

Fish: Aye.

Adams: Aye. [gavel pounded] all right. Now we're in recess until 2:00.

At 10:02 a.m., Council recessed.

September 7, 2011
Closed Caption File of Portland City Council Meeting

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Key: ***** means unidentified speaker.

SEPTEMBER 7, 2011 2:00 PM

Fritz: This is the September 7, 2011 afternoon session its 2 pm please call the roll.

[roll call]

Fritz: The mayor will be here shortly so he asked me as president to open up the matter today, which is item number 949. Please read the title.

Item 949.

Fritz: I'll have staff come up as I do the opening. This is within my bureau in the office of neighborhood involvement, our liquor management program. Teresa marchetti is our wonderful staff person, doing an amazing job on that. So to frame this matter that's before us today, the Oregon liquor control commission has preemptive authority over liquor licenses. The legislature allows local government to regulate the time, place, and manner in which alcohol is sold. The time, place, and manner code in Portland was enacted by the city council in 2004 to provide an avenue to address chronic livability issues associated with problem liquor outlets. Many thanks to commissioner randy Leonard who was a leader in this and pressed the council at the time, supported the neighborhoods. And this is something that was considered risky at the time and he pushed through with it and it's been spectacularly successful so thank you, commissioner Leonard. The current code has been effective in addressing chronic problems at locations. It consolidates complaints for review, neighbors have only one place to call and the issues are investigated by all the bureaus represented on the liquor license team. The process is a reasonable one to a responsive licensee requiring a plan of action and allowing them to utilize city's resources to regain control of their premises. If they are not responsive, the code provides legal recourse to address problems via the code compliance process. Although it has been effective, my staff, the oversight committee, and the liquor license team staff have identified several areas that the current code is insufficient to address problems arising out of establishments license to sell alcohol. For instance, in january 2010, a visiting police officer saw -- visiting a licensed location saw lines of cocaine laid out for use on the bar. And there was no recourse to hold the management responsible to address the issue through the time, places, and manner code. Very interesting. Currently we can only include such an incident if it also involves disorderly or disruptive behavior. Clearly the proprietor is not allowed to sell or provide that illegal substances, but in an instance like that there was no way to make -- to find out who was responsible for that behavior. We've seen an increase in violence in bars in the last year and serious life threatening incidents. In these particular cases a license should be -- licensee should be required to respond to address the public safety issues before more harm is done. It is important to reiterate again that most authority for liquor licensing rests with the state and the Oregon liquor control commission. Senator jackie dingfelder and representative tina kotek worked with our government relations team and our liquor control staff and neighborhoods and our entire council to try time improve the state regulations in 2011. We will continue to press that in subsequent sessions. Senator dingfelder and representative kotek have sent a letter of support for this ordinance which is in the record. Now teresa marchetti, our liquor licensing specialist will explain how -- what we're asking to do is broaden the authority slightly to address other blatantly illegal behaviors and allow for earlier interventions in chronic cases.

Theresa Marchetti, Office of Neighborhood Involment: Thank you very much. Mayor Adams, commissioners, i'm therese marchetti the city of Portland's liquor licensing specialist. And today

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i'm here to talk briefly about -- i'm going to give a general overview of how the time, place, and manner works as we process these cases, starting with that to better illustrate some of the changes that we would like to implement and that we're proposing today and why they're necessary. As commissioner Fritz already said, the time, place, and manner code is our single tool to deal with license locations at the local level, and problems that are occurring both at the livability standpoint and more serious public safety issues. First of all, the liquor license team is made up of several bureau representatives, myself, the Portland police bureau, drugs and vice division, the neighborhood response team officers, noise control office, and it also encompasses other participants as well. The fire bureau, the bureau of development service, Multnomah county, and sometimes olcc as well. In evaluating complaints. When the liquor license team receives complaints we substantiate them to see if they meet the current definition of a nuisance activity, how they're related specifically to the premise, and also in what form of documentation we received them in, whether it's a police report or complaint form or neighborhood track form. If there are three substantiated complaints that meet the criteria for a nuisance activity and also are substantiated through the neighbor or the police officers willing to testify, then that equals a violation currently. So the current definition of nuisance activity encompass seven different behaviors -- disorderly conduct, noise from amplified music, offensive littering, drinking in public, blocking vehicle traffic, alcohol in parks and shots fired. And what it means when a license is in violation of the time, place, and manner code is that then they have to respond within 10 days to enter a formal abatement plan with the city of Portland through my office and the drugs and vice division at the Portland police bureau. And this plan is very specific. It addresses the specific nuisance activities that have occurred, so if it's disorderly conduct we're going to look at previous -- security protocols, we're going to be looking at what their overall code of conduct is, how they control and manage their premise. If it's over service issues, we're going to be looking at the way they serve alcohol, alcohol monitors, monitoring intoxication. Its also temporary, it's a 90-day period of time in which resources are offered from the crime prevention program, from the Portland police, and so they have every opportunity to take care of the issues and abate the issues. If they do not, if they refuse to respond or they refuse to follow the terms of the abatement then it's also enforceable through a code hearing, and again, we don't have any authority over the license itself, but what -- through the code hearings office we can ask for the hours or the days to be restricted for -- on the licensed premise, require them to hire additional personnel, those kinds of things. So in the last two years, i've provided a summary for you on the power point of the time, place, and manner activity for -- through 2009-2010, and 2010-2011. 2009-2010 we evaluated 65 licensed premises, 23 resulted in violation, 34 were through informal processes. If we can we'll try to address a location when we see they're beginning to have issues. Out of those 23 violations, 16 of the abatement plans were successful, four resulted in code hearings, and stipulated agreements in which they were mandated by the code officer to restrict their operation in some way. In 2010 and 2011, we evaluated 60 licensed premises, for of the time, place, and manner violations, 14 were issued violations and of those eight were successfully abated. Four had to go to code hearings, and two were closed or changed ownership before the end of the abatement period. So the changes that we are asking for I have come -- have come after we have gone through the process and I have identified certain areas where we're just not as effective as we feel we could be. One is early intervention. A lot of times what we'll be following a location that is having problems that are escalating, but doesn't quite meet the threshold of the code for us to compel them to come to the table. It also -- the changes that we're asking for address illegal activities that are not currently in the code, and also allow us to address in a better way serious incidents. First of all the change in the time line for the violation, currently if three occur in 30 days that's equals a violation. We are proposing to change that to three nuisances in 60 days. We're asking one serious incident that involves loss of life or the threat of loss of Life equal a violation immediately. This will help us

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avoid the two and 30 waiting game, and as you can see, i've illustrated an actual licensee's time line in which it started off with some low-level offensive littering, disorderly conduct, and ultimately ended in a homicide. But it never quite reached the threshold for us to be able to compel them. That doesn't mean we weren't meeting with them, trying to address their behaviors on a voluntary level, but sometimes that's not enough. It also allows the city to address these particular behaviors in abatement of the nuisance activities i'm going to illustrate for you. I want to reiterate everything that we have -- the nuisance activities we've added are illegal behaviors, what is not a nuisance activity is behavior that is not illegal. Even some things that are concerning to neighborhoods and that do address -- impact livability, but are not currently illegal are still not defined as nuisance activities. So the additional nuisance activities that we're asking for are illegal drug activity, and unlawful prostitution procurement. In eight of the 60 locations we evaluated, they also had issues with drug activity that we were not able to specifically address. Three of the locations that we evaluated in 2010 and 2011 also had issues with prostitution that we were not able to address. Additionally, the occurrence of serious incidents is something we feel we should be able to address and those are illustrated for you as well. These include criminal homicide, assault by means of a weapon or motor vehicle, assault that causes serious physical injury, recklessly endangering another person, any felony sexual offense in the first degree, unlawful use of a weapon. The reason for this really is in the last year that we have seen an increase in overall violence and violence at licensed locations. Since January of 2011 we've had four patron involved stabbings, and six gang affiliated shootings at bars. And the nuisance activities defined as a serious incident are defined in the statutory as incidents that involve serious injury or death. We held, just for your information, we did hold two public hearings in June and July in 2011, and we did have overall positive feedback for the changes that were bringing forward. There were written comments that were submitted. There were several concerns, and we did address those. One was initially we had a cost recovery, we proposed changes to the cost -- to allow us to recover costs in the event that we were -- we ended up having to go fully to code hearings and we were not successful in abatement. That was ultimately removed. We also had fire code violations included in the nuisance activities initially. We have good tools and a strong partnership with the fire bureau to be able to address fire code violations already. The serious incidents as well were more further defined. We did have information from licensees that they didn't feel they understood exactly what would be defined as serious, and so we called them out specifically in the code to be as clear as possible. And the drug activity initially included manufacturing and we more narrowly tailored it to only have to do with drug use and distribution. It allows licensees to utilize resources of the city, it promotes healthy businesses, and safe businesses, and addresses both public safety and livability concerns, and if a licensee is responsive as you've seen from the information that we've presented, the violation goes away, and ultimately they're left with a stronger business. And it is our only tool in Portland for community and police to address chronic problems at licensed locations. If you have any questions I would be happy to answer.

Saltzman: What is unlawful prostitution procurement?

Marchetti: It's as defined in city code.

Saltzman: It applies to the licensee?

Marchetti: 14a.40. If unlawful prostitution procurement was occurring at the premise as a product of operation, by employees or patrons, it's something that we could talk about.

Fritz: The word unlawful implies there is lawful prostitution.

Adams: Our enforcement tools are related to the licensee not the facility. Correct?

Marchetti: What gives us jurisdiction through this code is the fact they are a licensee. Our authority is over the operations, though, not specifically the liquor license.

Adams: Ok. It is the owner of the actual business as opposed to the owner of the property.

Marchetti: Owner of the business, correct.

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Adams: There's -- the city we from time to time there are limited venues that sort of go in and out of the change operators and the venue itself has a history of being a place of conflict for gang violence and such, and so we're in discussions with the city attorney's office of how to deal with those and -- but that's on a different legal path than what we're talking about today. As I understand.

Marchetti: Correct.

Adams: Thank you. Any other discussion? All right. Anyone wish to testify?

Fritz: We have one person signed up. Susan pierce.

Adams: Did you want to add anything?

*******:** No. Thank you.

Susan Pearce: Good afternoon mayor Adams, commissioners. My name is Susan Pearce, I'm a member of the Hosford Abernethy Development Association Board and I speak for that board. I'm handing out to you two handouts, one is a copy of a letter that I sent a month or two ago regarding this issue that has been changed only -- I changed the date to today, but just in case you misplaced my previous one, the other one is some background information on one of the offending establishments in our neighborhood, the 720 Club, and with a list of the complaints. This was one of the places that was eventually closed, I believe in the -- in 2009-10 year, but it may have been 10-11. HAND would like to voice our support for the proposed changes to the time, place, and manner regulations under the review bite city of Portland and thank you to Commissioner Leonard for that original ordinance and to Commissioner Fritz for the proposals. The HAND neighborhood has many active businesses that provide jobs and services and places of entertainment. Many of these establishments are destinations for people from outside the neighborhood, maintaining a safe environment for everyone is important to the livability of the neighborhood, success of our businesses, and our ability to attract visitors to patronize them. Residents and business coexist in the dense fabric that makes our neighborhood vibrant and exciting and a great place to live. At the same time there's the potential for tension and conflict. Hand has supported the TPM since its conception. The current process has been used successfully to curb behavior pattern problems by management and patrons at bars and pubs assisting managers to provide better control and become better neighbors and on one occasion resulting in the closure of the bar. Strengthening the ability for the city to deal with nuisance activities related to business is an important protection for everyone. We have heard from residents and businesses who are troubled by nuisance licensees that the current TPM does not include some of the most problematic activities that can be difficult to document. Three events with any given 30-day periods and it becomes wary of having to start the process over and sometimes more than once. We therefore welcome another -- we welcome the addition of the -- including the TPM ordinance -- included in the TPM ordinance and the extension of the reporting period to 60 days. We appreciate the proposal to consider prior notices when complaint is filed, we believe that the fines to reimburse the city, I'm disappointed to hear that was taken out because I thought that was only appropriate, or we did. Making businesses accountable for operations and I'll let you read the rest.

Adams: Thank you, Ms. Pierce. Always good to see you.

Pierce: It's always good to see you. Thank you.

Adams: All right. Unless there's additional discussion, this moves to a second reading next week.

Fritz: Thank you, everybody who came, and thank you to Amy Archer and Theresa Marchetti in the office, and our uniformed officers, too. We have a great partnership with the police. Thank you.

Adams: We're in recess until tomorrow at 2:00 p.m. [gavel pounded]

At 2:20 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast. It has been verified with the audio recording of the meeting.

Key: ***** means unidentified speaker.

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Adams: All right. Is your microphone on? Karla, before I gavel us in, because we have absences today, we are going to be continuing the hearing, which means we just simply move the hearing to a future date, and we've talked to most of the parties and so that's what we'll be doing today. And we have an unexpected illness today, and so sorry for the inconvenience. [gavel pounded] Karla, today is thursday, september 8th. It's 2:00 p.m., city council will come to order. Karla, please call the roll. [roll call]

Adams: A quorum is present. Please read the title of our item.

Item 950.

Adams: Unless there are objections this hearing is continued, or moved -- what's the right word?

Kathryn Beaumont, Chief Deputy City Attorney: It would be continued. And you might want to have a motion and vote to continue.

Adams: Move to continue the hearing to 2:00 on october 5th, 2011.

Fritz: Second.

Beaumont: is it October 5th or 6th.

Adams: October 5th, 2011. It's been moved and seconded. Any council discussion? Karla, please call the vote.

Saltzman: Aye. **Leonard:** Aye. **Fritz:** Aye.

Adams: Aye. Again, sorry for the inconvenience. We couldn't plan or know that commissioner Fish would be sick. We're adjourned. [gavel pounded]

At 2:02 p.m., Council adjourned.