



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF SEPTEMBER, 2013 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees, Deputy City Attorney; and Mike Cohen, Sergeant at Arms.

Item No. 858 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

	Disposition:
COMMUNICATIONS	
846 Request of Leon Oswalt to address Council regarding the Office of Equity and the operation of Fire and Rescue equipment (Communication)	PLACED ON FILE
847 Request of Sandra Harmon to address Council regarding obtaining housing (Communication)	PLACED ON FILE
848 Request of Tom Spitznagel to address Council regarding streamlining transportation processes on half street improvements (Communication)	PLACED ON FILE
849 Request of Willow Frost to address Council regarding R2DToo and its economic value (Communication)	PLACED ON FILE
850 Request of Gary Fleming to address Council regarding toxic plant overgrow situation (Communication)	PLACED ON FILE
TIMES CERTAIN	
851 TIME CERTAIN: 9:30 AM – Call on the United States Food and Drug Administration to reverse their longstanding prohibition on gay men donating blood (Resolution introduced by Commissioner Fritz) 15 minutes requested (Y-5)	37029
CONSENT AGENDA – NO DISCUSSION	
Mayor Charlie Hales	

September 11, 2013

Bureau of Planning & Sustainability

<p>*852 Approve annexation to the City of Portland of property within the boundaries of the City's Urban Services Boundary in case number A-3-13, in the southwest part of the City on the north edge of SW Northgate Ave west of SW Terwilliger Blvd (Ordinance)</p> <p>(Y-5)</p>	<p>186231</p>
<p>853 Amend contract with Deborah Meihoff, Communitas LLC., to provide an additional \$20,000 to continue work on the Comprehensive Plan Facilitation (Second Reading Agenda 812; amend Contract No. 30002659)</p> <p>(Y-5)</p>	<p>186232</p>
<p>854 Amend contract with Cogan Owens Cogan LLC., to provide an additional \$20,000 to continue work on the Comprehensive Plan Facilitation (Second Reading 813; amend Contract No. 30002661)</p> <p>(Y-5)</p>	<p>186233</p>
<p>855 Amend contract with Smiley Joe LLC dba Solid Ground Consulting, to provide an additional \$20,000 to continue work on the Comprehensive Plan Facilitation (Second Reading 814; amend Contract No. 30002657)</p> <p>(Y-5)</p>	<p>186234</p>
<p>Office of Management and Finance</p>	
<p>*856 Pay claim of Mable Harris in the sum of \$14,646 involving the Fire Bureau (Ordinance)</p> <p>(Y-5)</p>	<p>186235</p>
<p>*857 Grant a temporary, revocable permit to Oregon Health and Sciences University to use City streets for telecommunications services and establish terms and conditions (Ordinance)</p> <p>(Y-5)</p>	<p>186236</p>
<p>858 Grant a franchise to Chevron USA for a period of 20 years to use City streets to own and operate a Pipeline System (Second Reading Agenda 753)</p>	<p>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</p>
<p>Commissioner Dan Saltzman Position No. 3 Portland Fire & Rescue</p> <p>859 Authorize Intergovernmental Agreement with Metropolitan Service District for maintenance of a computerized mapping system for Portland Fire & Rescue emergency response vehicles not to exceed \$20,000 per year (Second Reading 821; Contract 30003562)</p> <p>(Y-5)</p>	
<p>Commissioner Steve Novick Position No. 4 Bureau of Emergency Management</p>	

September 11, 2013

<p>*860 Authorize application to the Oregon Military Department, Office of Emergency Management for a Hazard Mitigation Grant in the amount of \$110,000 for a pilot residential seismic strengthening program (Ordinance)</p> <p>(Y-5)</p>	<p>186238</p>
<p>Bureau of Transportation</p>	
<p>861 Authorize Bureau of Transportation Director to enter into donation agreements for bicycle parking facilities (Second Reading Agenda 825)</p> <p>(Y-5)</p>	<p>186239</p>
<p>862 Approve the Managing Oregon Resources Efficiently Intergovernmental Agreement between participating Oregon public entities and the City of Portland (Second Reading Agenda 826)</p> <p>(Y-5)</p>	<p>186240</p>
<p>Commissioner Amanda Fritz</p> <p>Position No. 1</p>	
<p>*863 Authorize a grant agreement for an amount not to exceed \$40,000 with SE Works Inc., a community-based workforce development organization, to provide education, training, employment and supportive services (Ordinance)</p> <p>(Y-5)</p>	<p>186241</p>
<p>Portland Parks & Recreation</p>	
<p>*864 Authorize acquisition of real property abutting Knott Park for park purposes (Ordinance)</p> <p>(Y-5)</p>	<p>186242</p>
<p>Commissioner Nick Fish</p> <p>Position No. 2</p> <p>Bureau of Environmental Services</p>	
<p>865 Authorize the Bureau of Environmental Services to amend the legal descriptions for temporary easements and to acquire said easements necessary for construction of the Safeway Pump Station Remodel Project No. E10292 through the exercise of the City's Eminent Domain Authority (Second Reading 831; amend Ordinance No. 186095)</p> <p>(Y-5)</p>	<p>186243</p>
<p>866 Authorize grant agreement with Southwest Neighborhoods Inc. to provide education, outreach and community involvement for watershed projects in Fanno, Tryon and Willamette watersheds up to \$73,000 for FY 2013-14 (Second Reading Agenda 832)</p> <p>(Y-5)</p>	<p>186244</p>
<p>867 Authorize contract with Berger ABAM, Inc. and provide for payment for the design and implementation of the Tryon Creek at Boones Ferry Culvert Replacement Project No. E08682 for \$607,505 (Second Reading Agenda 833)</p> <p>(Y-5)</p>	<p>186245</p>

September 11, 2013

<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Mayor Charlie Hales</p> <p style="text-align: center;">Bureau of Police</p> <p>868 Authorize a Memorandum of Understanding with the U.S. Coast Guard and the Portland Police Bureau to transfer and destroy narcotics (Second Reading Agenda 842)</p> <p>(Y-5)</p>	<p style="text-align: center;">186246</p>
<p style="text-align: center;">Commissioner Dan Saltzman</p> <p style="text-align: center;">Position No. 3</p> <p style="text-align: center;">Portland Fire & Rescue</p> <p>869 Amend Portland Fire Regulations to extend the protection afforded by automatic fire sprinklers to occupants of existing buildings used as nightclubs that are not protected with an automatic fire sprinkler system (Second Reading 845; amend Code Section 31.10.050)</p> <p>(Y-5)</p>	<p style="text-align: center;">186247</p>
<p style="text-align: center;">City Auditor LaVonne Griffin-Valade</p> <p>870 Assess property for sidewalk repair by the Bureau of Maintenance (Hearing; Ordinance; Y1081) 15 minutes requested</p>	<p style="text-align: center;">PASSED TO SECOND READING SEPTEMBER 18, 2013 AT 9:30 AM</p>

At 10:51 a.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.

<p style="text-align: center;"><u>WEDNESDAY, 2:00 PM, SEPTEMBER 11, 2013</u></p> <p style="text-align: center;">DUE TO LACK OF AN AGENDA THERE WAS NO MEETING</p>	
---	--

September 11, 2013
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 11, 2013 9:30 AM

Hales: Good morning, and welcome to the September 11, 2013 meeting of the Portland City Council. Would you please call the roll.

Saltzman: Here. **Novick:** Here. **Fritz:** Here. **Fish:** Here. **Hales:** Here.

Hales: 12 years ago today, the United States was hit catastrophically with the worst incident of terrorist violence that I hope our country never experiences. That loss is still felt among all our citizens, in New York, Washington, D.C., and for all of us, so I would like to start this morning with a moment of silence in remembrance of all of the victims of September 11th. Thank you very much. Now, I would like to call on Commissioner Fish for news from the arts front in our own city. Commissioner Fish.

Fish: Thank you, mayor. We have two special guests I would like to call forward. Robyn Williams, executive director for the new Portland Five, formerly the Portland Center for the Performing Arts, and Judie Hammerstad, our metro exposition and recreation commission chair, and more importantly, the former and distinguished Mayor of Lake Oswego. This morning I am pleased to welcome our two guests to help us celebrate a new day for the Portland's historic arts venues. As the council liaison to arts and culture, it is my pleasure it read the following proclamation this morning, and then to recognize our guests. Whereas Portland boasts a world class arts scene from the street to the stage, and whereas for over 25 years the Portland Center for the Performing Arts has managed Portland's historic arts venues, and whereas PCPA hosts over 900 outstanding performances each year, in the Arlene Schnitzer concert hall, Dolores Winningstad Theatre, Newmark Theatre, Keller Auditorium, and Brunish Theatre, and whereas PCPA is nationally recognized as one of the top ten performing art centers in the nation. And whereas pcpa enlisted sockeye creative marketing company, PCPA staff, and community members to launch rebranding effort for all the venues, and whereas PCPA will be now known as Portland's five centers for the arts, and whereas the new Portland's name breathes new life into our historic venues and their performances, and whereas the redesign their logos, website, and mobile platforms will help Portland's better serve local arts supporters and find new audiences, now therefore, Charlie Hales-- I, therefore, Charlie Hales, mayor of the city of Portland, the city of roses, do hereby proclaim September 11, 2013, as a day recognition for Portland five centers for the arts in Portland, and encourage all residents to observe this day. Ladies, welcome, and Robyn do you want to kick this off? Mayor?

Hales: Thank you.

Judie Hammerstad: Well, we feel very privileged to be here this morning. And Mayor Hales, and members of the commission. We have always valued the support that the Portland City Council has given to the arts, and it makes our job so much easier. I'm not only the chair of the commission, but I'm also the liaison to the Portland Center for the Performing Arts, which is the last time that I'm going to say that name. We are now the Portland's 5, and in getting to Portland's 5, we really reached out to virtually all of our stakeholders, which is a wide number of people, which includes not only our resident companies, our patrons, the business community, the arts community outside of those who are, are using the facilities, the commercial venues that we have, and we really responded to their need for first of all, looking at PCPA and saying, why does no one know what PCPA is? Now, we hope that people will be able to associate the Portland's 5 better with what those actual theaters

September 11, 2013

are, and the performing arts venues, so we're looking forward to ramping up this campaign on the logo, and having activities that will include folks, so in that they know that when they are going to the symphony, that they are going to Portland's, but they are also going to the Keller, the Schnitzer auditorium. So, the result of this is a new look. A new name. A new beginning. Honoring our historic buildings, as well as the performing arts resident companies that perform there, and we're honored by this resolution and the support that we have from this council. Thank you for, for allowing us to come today, and thank you so much for your support.

Robyn Williams: As we went through this process, it came quickly to us that the key message that we wanted to send as to who and what we are, is that we are Portland's buildings. That these are very important city assets that belong to the people of Portland. So, when the name, Portland's came out, we were particular excited. Because if you glance at it really quickly, you see Portland, and we are Portland's buildings. But, if you look at it a little slower, it's Portland's, and we're putting the emphasis on the five venues because it's really about the individual venues. People have a love for each venue, they have memories for each venue, and we want to really capitalize on that and we think that the new brand does exactly that. We are currently celebrating our 25th anniversary and to be able to roll out a wonderful brand, and with the support the city, has been an amazing experience for all of us. We think that the three brand well positions us for the future, provides support for all of our organizations and the brand new website, I think, is being very, very well received by the members of the public, who use it so regularly to find out what's going on in our buildings. We're very honored to manage these buildings on your behalf. And we're very, very appreciative of this proclamation, recognizing our new, new name, as we move forward for the next 25 years, we thank you very much.

Hales: Thank you for being here today, any questions for our presenters or comments?

Fish: One of the goals was to raise the profile of the organization and to stimulate a community conversation, and just reading about your rollout, I see there is some people who love it and some who hate, but that's the beauty of what you have done. You have elevated your profile, engaged the community, and I think in short order, the Portland's will take hold and will certainly announce your footprint in a way that's much more Portland-centric than, than PCPA, which, as an acronym, left a lot of us lacking. So, thank you for going through this exercise, ensuring it, and we look forward to seeing the banners as they go up. And when I got my briefing, mayor, I was struck by the, the almost the origami, is that right? The Japanese calligraphy, origami, the light, the color, the texture and I think, I think that it will add a lot to the built environment, and it will make quite a statement in both the design and the color. But we appreciate that our partners are trying to raise their profile and drive tourism and commerce downtown to our historic venues. So, we appreciate your good work. I will now present --

Hammerstad: Can I say one thing about that? Because you called your attention--

Fish: We would have never done this. You are the mayor, for god sakes, you can say whatever you want.

Hammerstad: It's just that the next time you see us we will be here in our entrepreneurial hats. Because our function, as the [inaudible] commission, is to have oversight and make our venues profitable. And as profitable as we can make them, including as many people as we can make, and so, the next time that you are going to see us here on the convention center hotel, but, both the Portland's and the branding and the outreach on that and the convention center hotel have things in common with bringing people into Portland, to stay, to spend money, to be successful, to provide another venue for both the performing arts, the commercial aspects and we're all together in elevating Portland as a prosperous and wonderful place to live. So, thank you very much. And now, you can present this. [laughter]

Novick: Actually, mayor, if I may. I just wanted to say that having a name that looks like a misprint strikes me as a really creative way to attract attention, and I bet it is going to work. [laughter]

September 11, 2013

Hammerstad: You wonder about the grammar.

Hales: Thanks very much. As a number of us are made better people by our spouses, and thanks to the civilizing influence of my wife, I spent some time in each of these five facilities, but I think it's good that we're pointing out that there are five so I guess we can set that goal for ourselves, that you understand the cultural and arts scene in Portland if you have been to a performance in all five of these. So, extra credit for those that do, and at least in my case, I didn't earn it but I've got it. Ok, let's move onto the communications. And we have item 846. Karla.

Item 846.

Hales: Mr. Oswalt. Are you here? Not here. All right, we'll see if he comes in later. Next one, please.

Item 847.

Hales: Miss Harmon. Nope. All right. Again, we'll see if she comes in. 848.

Item 848.

Hales: Mr. Spitznagel, come on up. Welcome. If you have not been here before, you just need to read your name into the record and you've got three minutes.

Tom Spitznagel: Thank you. My name is Tom Spitznagel. I am a second generation home builder, developer in the city of Portland. I live in the city of Portland. My office is in the city of Portland. And currently, I have five projects under some state of building in the city of Portland. I am not big. I would not pretend to be, and I am just a normal Joe trying to make living in the city. I am trying really hard to get to the bottom of streamlining some processes when it comes to half street improvements. For the record, half street improvements that I'm talking about, for single lots, in the city of Portland, the last report was that there was 3,300 individual infill lots in the city of Portland. That report was done in 2012. Rough half of those have half street improvements that are incorporated into doing the work. When you apply for a building permit, and/or a street improvement permit, there's processes that are in place currently to do that. A building permit process is very efficient and well put together. When you apply for the building permit, you are given a sheet of paper that looks like this, and they are, people have seen them, at the bottom of the page, transportation signs off, on a building permit. And when you simultaneously apply for a building permit and a street improvement permit, transportation cannot sign off on that permit until it's time a bond is put in place for the improvement of the street permits. So as, if the developer builder did not do the street permits the city could take their folks and go in and finish that process. Currently, there are three bureaus that make up the bond, transportation, BES and water. They have to come up with a bond amount before the bond can be put in place. I simultaneously, in March, applied for a building permit and a street improvement permit. The building permit was hung up for six weeks, until which time the bond could be issued by the city of Portland. The three bureaus argued back and forth, for six weeks. Keep in mind, the permit process took roughly a month and a half, and the building permit process took a month and a half, the street improvement process is still under review. It's one lot, 100 feet, it's easy to do, the bond should not take five months to be determined by the city. I'm asking the city, give authority to the people that you have working. They are very, very competent. Very clear, they are excellent people. The process is terrible. What I have done for you on that sheet of paper is given you what I believe to be a pretty easy idea of what I'm trying to accomplish. I would love to donate my time to help these people, particularly mark fischer [spelling?], who is an, who is in insurances, to make this process easier.

Fish: Sir, before you go, can I just engage this for a second?

Hales: Please, this is very helpful.

Fish: The three bureaus that you mentioned, water, sewer and transportation are under the leadership of either Steve Novick or me. Commissioner Novick, when he received the transportation bureau, signaled for me and the council, desire to get the infrastructure bureaus to work together more effectively on precisely these kinds of questions. Now, we didn't know that this one would

September 11, 2013

come before council today, but, since you flagged it and since I have water and sewer now, as of June, and since Steve is in charge transportation, Commissioner, this might be a unique circumstance where we can take this particular experience, bring our teams together, and learn a bit more about how that process works and how we might make it work more quickly and efficiently.

Novick: Exactly.

Fish: Would like to take the lead on setting that up or do you want my office?

Novick: I can do that.

Fish: If you could give contact information to Steve's office, if you don't mind, we'll take up on our offer and have you come in and walk us through the experience, and we'll bring representatives from the three bureaus and see if there is a-- and my guess is this may involve the bureau of development services. So, we'll probably talk to our friends and colleague, Commissioner Fritz, to see whether she has a dog in this fight, and see if we can figure out a way it streamline this process because you have raised exactly the kind of question that he and I would like to tackle together.

Spitznagel: I appreciate that, and I am actually here at the urging of Commissioner Novick's staff members asked that I come in and speak to this very item. So, I'm happy to do that and would love to give more information to commissioner Novick so that people like myself don't go through this process of not being able to work within the city limits under the current framework with, honestly, excellent people that work on behalf of the city.

Hales: This is very helpful. I have had some other complaints about the public works permit process but they haven't been as well articulated or presented as this. So thank you for doing this today and for, council members, for stepping up and working on it. It is an inter-bureau problem with the city, and I think you have done a great job of highlighting it and I am glad we're going to work on it.

Spitznagel: Thank you.

Hales: Thanks very much.

Item 849.

Hales: Miss Frost, are you here? Ok. And then 850.

Item 850.

Moore-Love: He called and has to reschedule.

Hales: Okay. So, has Mr. Oswald or Ms. Harmon arrived? If not, we'll give them the opportunity to sign up again and we'll move to consent agenda. I have one item to pull back to my office for a little more work, and that's item 858, which is the utility franchise. So, with council's permission, I will pull that back to my office for, for further review. Any other requests? Any requests from the community? Ok, let's vote on the bulk of the consent agenda, minus 858.

Saltzman: Aye. **Novick:** Aye.

Fritz: Just know that one of the items we're approving is a contract for Southeast Works which was approved in the budget. This is an amazing community organization that helps kids who have been struggling in school to get their diploma and go on to college, and that's worth noting. Also that Jasmine Wadsworth, my new constituent services specialist, it's her very first ordinance that she has put through council and I am very pleased it's on here. Aye.

Fish: Aye.

Hales: Aye. Ok. Item 851, times certain.

Item 851.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor Hales. I am very pleased to present this resolution calling on the Food and Drug Administration to reverse their prohibition against gay men donating blood, because it is unjust and ineffective. It is fairly infrequent that council comments on issues outside of our control, but, Portland has a long history of opposing discrimination. This policy impacts thousands of Portlanders who cannot give blood for their entire lifetime because of outdated science and lingering fear. I learned a statistic this week that's frightening. Between 1981 and 1983, 50% of hemophiliac

September 11, 2013

patients in the United States became infected with AIDS. 10,000 hemophiliacs contracted HIV and nearly 8,000 have died. In 1984, the risk for contracting HIV through blood transfusions was one in 2,500. Today, the risk is estimated to be one in 1,467,000. So just as we had a moment of silence for, for 9/11 at the beginning of the procedures, I was thinking back to the dark days of the beginning of the AIDS epidemic when we lost many friends to the disease and a lot of restrictions were put in place. So it--so there was a good reason for the FDA to take drastic action to address the crisis back in the 1990s. But over the past 30 years, much has changed. Blood screening protocols and science have improved dramatically, and all donated blood is tested using nucleic acid testing. This process is effective in detecting HIV infection to less than two weeks after infection. The Food and Drug Administration does have responsibility to ensure the safety of America's blood supply. We are not asking for no restrictions on who can give blood, but rather than sweeping an entire category of Americans, it is more reasonable to consider current behavior. Many other countries have more sensible policies and I hope that we will approve this resolution. Some have said it's entirely symbolic. It is, perhaps, it is, certainly, beyond our control. It's important for us to make this statement, to add our voices to other cities and jurisdictions who are calling on the federal government to change the policies. So with that, it's my honor to invite City Ombudsman Margie Sollinger and Multnomah County Health Officer, Dr. Justin Denny to come to the podium. It's also a delight to bring this particular resolution because it came from a complaint to the Ombudsman by a city employee. And the Ombudsman looked into it, even though it was one person making a complaint, so Margie, if you could explain first all, what the Ombudsman is and how you operate, and then how this came to be brought to Council.

Margie Sollinger, Ombudsman, City Auditor's Office: Thank you. Good morning, mayor and commissioners. My name is Margie Sollinger, the ombudsman for the city of Portland. The ombudsman's office is a division of the city auditor's office and it's charged with conducting independent and impartial investigations in response to complaints from the public and city employees about city bureaus. And I appreciate the chance to provide additional context for the resolution that commissioner Fritz brought forward today. In December of last year, a city employee contacted me after receiving a bureau-wide email announcing a city-sponsored Red Cross blood drive. Although the employee wanted to join the effort of the blood drive, he was not able to do so for the sole reason that he is gay. The Red Cross's HIV/AIDS policy states that a person may not donate blood if they have AIDS, if they have tested positive for HIV, or if they have done something that puts them at risk for becoming infected with HIV. Doing something that puts them at risk of becoming infected includes things like using illegal intravenous drugs, being a sex worker or being a gay or bisexual man who has had sexual contact with another male even once since 1977. And that last part is the MSM policy. And the investigation I conducted looked at whether the city sponsorship of Red Cross blood drives violated the city's policy of non-discrimination based on sexual orientation, and if it was in violation, what should be done about it. I learned that the MSM policy as Commissioner Fritz noted was not developed by the Red Cross, but is, instead, the federal food and drug administration policy. All blood banks, including the Red Cross, must follow this. Since 2006 the Red Cross has publicly supported changing the MSM policy, calling it medically and scientifically unwarranted. In 2010, the FDA's own advisory committee on blood safety acknowledged that the MSM policy is suboptimal. Because there is growing consensus that the MSM policy is discriminatory without sufficient medical justification. It is important that the city of Portland publicly joins the chorus of other cities, including New York City, LA, and D.C., as well as states, college campuses, and congressional delegates in calling upon the FDA to modify its 30-year-old policy. Passage of the resolution also demonstrates that while the city will continue to support life-saving blood donations, it is not complicit in discrimination against gay and bisexual men. Thank you, council, for considering this resolution and a particular thank you to Commissioner Fritz for introducing this resolution.

September 11, 2013

Justin Denny, Multnomah County Health Department: Good morning. Thank you for including me. Dr. Denny with the health department, happy to say a few words from public health's perspective. Greetings. Thank you for inviting me. I really have a few things just to share, and maybe a few things that are, I'm going to repeat what has just been said, but the issue, how we see this in public health, is one of blood safety and one of equity and discrimination. So we are very grateful to have a chance to say a few words about this. I am also going to share some of the key reports from the Council on Ethical and Judicial Affairs. It has been a pillar in this discussion in terms responding to the issues at hand. As we know, the technologies have advanced remarkably. You mentioned the new testing abilities to identify a virus within 11 days, which is phenomenal. So we have moved on since the 1980s, early 1980s, when we started the policies, to be able to identify a high risk blood supply. That said, there is a risk. And that risk is something which I need to point out to you, that we need other techniques to identify possibilities of transmission of HIV and other infections. So the multi-barriers used in addition to questionnaires, are donor education, voluntary self-deferral, and donor health assessments, quarantining donated units of blood and ongoing monitoring for emerging diseases. So we have to, unfortunately, acknowledge the fact that every unit of blood does pose some risk. So when I'm in the hospital, when I give blood to somebody, I have to have them sign a form, consenting that no blood is if 100% risk-free. So in this way, we use the questions to minimize the risk by identifying which populations have a higher risk than others. Policies that exist current really came from when we had the early onset of the epidemic, and are outdated and are discriminatory. And so, we understand this. We're still left in public health with the issue of how to reassure the public. Blood safety is our, is a major concern for us, and that's one of the things that I want to address. So, we believe that the efforts afoot right now to do, to address the lack of fairness here, hopefully will move faster along because of the work that you are doing to raise awareness to this issue. We're very grateful for this. Currently what's happening is the health and human services is, is studying further, or more closely, the different policies, around, if I can sift through my paperwork, policies around baseline studies that link behavior with risk factors. So we're looking more closely at what it is around how these behaviors translate into risk for HIV, and we're exploring attitudes around motivations around men who have sex with men, for donating blood, and doing a small pilot looking to see those who are MSM involving pre and post-donation screening for deferred donors. This is what's happening currently, is to do a small pilot to test these risk factors. So in spite of all these efforts, we think there is not enough being done. In public health, we believe discrimination continues for this policy which is outdated and certainly needs to be addressed. And we believe that what you are doing, again, helps us to move forward with revising the criteria, to looking more closely at how we can identify what the risks are to, perhaps, the last five years or the last one year, and to change the way in which we screen folks for that risk. And so for that reason I will conclude with the well-articulated report of council, which says the current screening and deferral policies of blood donors is ethically problematic and that it does not clearly treat comparable risks to blood safety in a consistent manner. It may unduly restrict the opportunity of some populations to engage in the socially valued activity of blood donation and perpetuates unfair stereotypes, overnight though it may not be discriminatory in intent or effect. So we join and you appreciate the efforts. The science, I'm afraid, cannot remove the risk of HIV because the testing has an 11-day window, but we believe work can be done to bring more people together, for being able to provide blood products, and we thank you for public health's opportunity to share our view on this matter. Thank you.

Fritz: Thank you, Dr. Denny. I appreciate your time in coming this morning. And Ombudsman Sollinger as well, thank you for raising this issue and being persistent reminding me that you had already told me about it. And I have one more panel and we'll open it up for public testimony. Thank you.

Fish: Amanda will you take questions?

September 11, 2013

Fritz: Oh sorry. Yes, go ahead.

Fish: Doctor, I had a question. When you give blood at the Red Cross you have to take a confidential survey, so the health worker leaves the room and it is now computerized. And it asks a series of questions, including things like have you traveled to certain countries, have you had certain, you know, certain diseases, and all the issues that you raised around human sexuality, and the like. And if, if, on the questions that ask if you traveled to certain countries and things of that nature, do those disqualify donors or do they, do they cause the red cross to do more due diligence on your blood?

Denny: A very good question, and thank you for that, Commissioner Saltzman. I think the issue -- or Fish, excuse me.

Fish: He's a good looking guy. [laughter]

Denny: That was very tricky of, I appreciate it.

Fish: Amanda Fritz and I are often confused.

Denny: The scientific basis of that answer is, one of the concerns for the trial history is Creutzfeldt-Jakob disease, which is a prion disease, a very scary blood infection that came from certain products in England in places where Creutzfeldt-Jakob cannot be screened for. So the technology hasn't caught up yet for those testings. So if you traveled or lived for more than six months in the U.K. from certain years, you are excluded from giving blood. I, unfortunately, am included with that having been raised in England, we cannot give blood until we develop technologies to ensure the safety of that blood supply. Again, technology is lagging in this direction, and that's why if you check yes to that box you are thanked for coming in but cannot give blood.

Saltzman: What was the disease, again?

Denny: Creutzfeldt-Jakob disease, CJD. It's a very rare but fatal progressive neurological disease that comes from consuming meats. It has been in the news with certain meat products, and certain parts of the world.

Fritz: It's known as mad cow disease.

Denny: Mad cow disease, thank you.

Fish: Doctor, this is the reason I did not pursue a medical career because I could never pronounce those. The other question that I had for you, is, is I have a relatively rare blood type, and I'm a universal donor, whatever that means, so I get that call from the Red Cross every time the 90 days elapses, and they ask me to come in. The other question that's before us is by disqualifying a whole segment of our society, we're also limiting the supply, are we not? And isn't one of the by-products of Commissioner Fritz's resolution if we can figure out the technology, adequately screen the blood, there is a huge demand for certain kinds of blood, which we are not meeting in part because we are disqualifying so many people. The number I heard, a staggering percentage of people are disqualified for one reason or another, which puts a burden on a very smaller number of donors.

Denny: Certainly. The numbers have been difficult to estimate but there have been studies looking into that to see what would happen if the ban was to be lifted and so forth. I have those here, I can share them with you. But the thought is an additional 219,000 additional units of blood would be made available for a one-year deferral. So, that's substantial, perhaps a 2% to 3% increase in the blood supply.

Fish: Is it fair to say that that could save a life?

Denny: Oh, certainly. The issue, again, we're dealing with blood safety, and these folks are professionals, this is a tricky world to be in. One mistake can cost a life if we he don't screen it properly. And we have other infections to worry about. We have hepatitis c, which is emerging like you wouldn't believe. Hep C is the biggest, one of the biggest concerns we have now. And HIV is becoming more treatable. So different things -- things are happening all the time, and it's a hard world to ensure safety and not discriminate based on risk factors, so I want to point out that it's a science that is always juggling and changing our estimates, and I think that we're not moving fast

September 11, 2013

enough with the FDA to meet the current abilities we have now within 11 days to identify a viral load. But back to your issue, we certainly could increase the volume of blood supply. I will mention there's been a decrease in the pool of eligible donors from 60% of the population to less than 40%, so this effort will help to move us back in the direction that we used to be, so our blood supply is dwindling and it's a concern that we have.

Fish: Thank you.

Novick: And Commissioner Fish, based on what I just heard I think you need to declare a conflict of interest when you vote because clearly your motivation here is to reduce the number of calls you get from the red cross. [laughter]

Fritz: It does not matter what your blood type is, you are going to get called. Thank you very much. Our next invited panel is Daphne Matthew from the American Red Cross, Barbara McCullough Jones from the Q Center, Tash Shatz from Basic Rights Oregon, and Letty Martinez from the Cascade AIDS Project. Would you please come forward.

Hales: Pull up another chair if you need. We only have three there. I can't see.

Fritz: And I see that we dispensed with our mobile microphone. Good morning, thank you very much for being here. Daphne, would like to go first?

Daphne Matthews: Absolutely. I'm from the Red Cross, the one responsible for giving all the calls. We do need blood, it's a constant thing for us. This is a big issue for the Red Cross, and our top line priority is, of course, the safety of the blood supply, but, we have, along with the association of blood banks, gone to the FDA asking to have this ban overturned, or at least modified. So, along the lines of what our Ombudsman and our medical officer talked about, and is that we would like to see more fair criteria laid down. And when a person is practicing, a male having sex with a male, that they would, indeed, have an opportunity to have the similar deferral criteria that others do, with the similar risk.

Fritz: Thank you. Barbara?

Barbara McCullough Jones: Good morning. Thank you for inviting me to speak this morning on this important topic. My name is Barbara McCullough Jones, and I am the executive director of the Q center. More importantly, however, I'm member of the LGBT community, which has experienced decades of discrimination based on real or perceived sexual orientation. Beginning in the early 1980s, we watched helplessly as government at all levels did nothing in the face of an emerging pandemic, which took far too many young, vibrant, gifted men from my community. The LGBT community has been part of history, both witnessing the making of discriminatory policies, and then working to their undoing. The time has come now for the current FDA ban on men who have sex with men donating blood to be revised, and more accurately reflect current scientific findings and good public policy. Under the current policy, men who have sex with men, or MSM, even once since 1977, are permanently barred from donating blood. This includes MSM who are HIV negative, consistently practice safe sex, or who are in a monogamous relationship. In the decades since the FDA implemented the MSM blood ban in 1977, vast improvements were made in technology that can test donated blood for communicable diseases, as was mentioned earlier, the nucleic acid amplification testing, or NAT, can detect HIV within a nine to 11 days of a window period of the donor becoming infected. When combined with best practices, that screen protective, prospective donors of high-risk behavior regardless of sexual orientation, NAT renders the lifetime MSM blood ban scientifically obsolete and unnecessary. The FDA requires blood donation organizations to screen the potential donors for risk factors related to HIV and other infectious diseases. Most administer donor history questionnaires, as was mentioned earlier, which asks about a donor's current health, medical history, blood donation history, and sexual practices, and drug use and other behaviors. Donors deemed to be high risk in response to the questionnaire are deferred from donating blood for varying periods time into the future. The questionnaire does not ask however, whether the perspective donors have engaged in specific higher risk practices such as

September 11, 2013

unprotected sex or sex with multiple partners or sex with a partner whose HIV status was unknown to the perspective donor. This leads to deferrals with a focus on donor's identity rather than high-risk behaviors. For example, the one-year deferral period mandated for a heterosexual donor who had sex with a partner to be known to be HIV positive is shorter than the permanent deferrals for a gay or bisexual male donor regardless of his partner's HIV status. Available research indicates that lifting a lifetime ban on MSM blood donation would cause little risk to the blood supply. In 2006, research presented a meeting of the FDA's blood products advisory committee found the implementation of technology like NAT and other operational improvements has reduce risk of releasing infected donated blood into the supply, and that replacing the lifetime MSM blood ban with a one-year deferral could increase the risk of HIV by one in 146 million, or one case every 33 years. In a statement released in June of 2013, the American medical association declared, "the lifetime ban on blood donation for men who have sex with men is discriminatory and not based in sound science." We support the recommendations by the gay men's health crisis in New York which include the FDA should update the donor history questionnaire so that all potential donors are screened for high risk behavior regardless of sexual orientation. And only perspective donors determined to be at high risk should be subject to deferral periods. The ban should be replaced with a policy that defers high risk, gay, and bisexual men while permitting low risk gay and bisexual men to donate blood. The risk assessment for gay and bisexual men should also include whether the donor engaged in low risk sexual practices like condom use or monogamy. The high risk members of the MSM population, such as those that fall into risk categories, for example, i.v. Drug users, commercial sex workers etc., who may report unprotected sex with partners, with HIV, or with unknown HIV status, may justifiably be subjected to lengthy or permanent deferrals. We applaud the city of Portland, and Commissioner Fritz, in particular, for your leadership and for examining the facts and letting public policy reflect accurate science instead of perpetuating public policy based in homophobia and prejudice. I am happy to answer any questions you may have.

Tash Shatz: Thank you very much. I am Tash Shatz with Basic Rights Oregon, the program director of the trans justice, transgender justice and racial justice programs. Basic Rights Oregon supports the resolution before you--excuse me--calling upon the FDA to reverse the prohibition of blood donation from gay men, bisexual men, and men who have sex with men. As Oregon's largest gay and transgender advocacy organization, dedicated to insuring that all Oregonians and their families experience equality, we applaud the council for urging the FDA to lift the ban. And since 1985, the FDA has banned blood donations for men who have had sex with men in the last 36 years. In that time, the movement for lesbian, gay, bisexual, and transgender rights has gained extraordinary momentum. In 1985, only a handful of states banned discrimination against gay and transgender people. Today, dozens of states do, and, as you know, in Oregon, discrimination against LGBT people is banned in housing, employment, public accommodations, schools and parental rights. We have plenty of work to do but have come a long way. In stark contrast, the FDA's blood donation ban remains in place. While intended to ban gay men from donating blood, the FDA's ban further marginalizes many in the LGBT community. Under this ban, for example, many transgender women are unable to donate blood because, because of financial and medical barriers to changing their legal sex from male to female. Another consequence of the ban is that those questioning their sexual orientation may be prohibited from donating blood. Additionally, transgender women and men who are not transgender who have faced sexual assault are disallowed. And we know that this ban has disproportionate impacts on communities of color affected by the HIV/AIDS crisis. So, for those who are already marginalized with the gay and transgender community the FDA's ban adds insult to injury. As a bisexual transgender person, I have never been able to donate blood, and I am joined by many others in being prohibited from fully participating in improving the health of our communities through blood donation. So in addition to these impacts, the blood ban on donation itself is based on outdated stereotypes about gay men. In 2010, for example, 77% of people in the

September 11, 2013

United States reported knowing somebody who is gay. Knowing a gay or transgender person can dispel many of the myth and stereotypes held about the community. While many stereotypes have fallen away, bans like the FDA's blood ban, kind of remain, remain in these stereotypes. Gay and transgender communities are better understood and more embraced now than ever before. Now is the time to lift the FDA's ban on blood donation and Basic Rights Oregon is proud to support the resolution before you. Thank you very much.

Fritz: Thank you.

Letty Martinez: Good morning, everyone, I am Letty Martinez and I am an HIV prevention specialist at the Cascade AIDS Project. I've been doing HIV prevention work for half of my life. And I'm also a donor. And because I have tattoos, occasionally I get deferred. And because I'm also queer, I often get deferred. But there are some things that I think are important for us to recognize. There are people who, before the ban on donations were able to donate and proud donors. And then were told very abruptly that they could no longer donate. In July, we partnered with the American Red Cross and with Outside In clinic, and the gay, the national gay donation day, and a young activist here in Portland, Alex Horsey, we tested people for HIV and then asked them to attempt to donate. And to be honest about their behaviors. And they were given lifetime bans. One individual really stands out to me, there is a gentleman from Clackamas who heard erroneously on the news in the morning that the American Red Cross was taking gay donor and he dropped everything and came directly to the donation location over on Vancouver. And he was sorely disappointed. He was given the letter. The letter that says, for reasons we discussed, why you cannot donate, indefinitely. Like there is, there is no end to this. You can't come back. And it was heart wrenching to see this gentleman, who is a universal donor also, who had, like, this moment of finally, I can give back. And it's been 30 years for him, and that means that if he had donated once, every six months, 540 people's lives could have been saved. Multiply that by thousands and thousands people who are turned away, and when we're in a position where 40% of the population is only able to donate and can qualify, this is -- it's about saving lives. And there's really no reason when we're not asking these questions that are clarifying whether a person is really at risk for us to turn so many people away.

Matthew: Can I add a comment? When we say 40%, about 38% of the American public is eligible to donate, and yet only about 8% of those folks do. So, it's -- again, you narrow down the people who are, actually, able to walk in the door and give a pint of blood.

Fritz: Daphne, there will be people watching and thinking, I've been meaning to do that and I am eligible, how do I do that--how do they go about donating in Portland?

Matthew: Call 1-800 Red Cross or go on to redcrossblood.org and make an appointment.

Fritz: I thank you very much. I certainly hope that privilege and honor will be extended to everyone in the future. Those who are truly eligible rather than those discriminated against. It's like voting, it's a privilege that some of us have and that I hope people own theirs. Thank you.

Hales: Thank you all. Other questions? Thanks very much. And public testimony. I have no other panelists, public testimony, please.

Moore-Love: Three people signed up. Barry Joe Stull, Mary Eng, and Charles Johnson.

Hales: Come on up, please. Good morning.

Barry Joel Stull: Hi, there. Good morning. Barry Joe Stull. My friend told me once that, that the definition of a fanatic is somebody that can't change their mind and won't change the subject. I'm going to talk a bit about cannabis stuff because that's my history, and I just want to inform you all what institutional bias this subject is exposing. In the 1990s, we had a compassionate investigational drug program, operated in Washington D.C. And, there was a couple from Florida, a hemophiliac, and his wife. He became infected AIDS in a blood transfusion and his wife, Barbara, came infected because he had sex with her. And as part of that experience, they used marijuana because it was something that, as we know here in Oregon, it's one of the qualifying conditions for the medical marijuana program, is to be HIV positive, or have AIDS. And the upshot is that they got bust for

September 11, 2013

having a couple of marijuana plants, and in Florida, all places, appellate courts, found that they had a medical necessity need, and they applied for the compassionate investigational drug program, and were approved. They became somewhat celebrities because, because among other things, Ken was allowed to smoke marijuana in the smoking area of the airport, as I recall, the news piece that I saw on that. And what happened was there is fellow, who, ironically, since passed of AIDS, Rob Randall [spelling?], who was the first person that got marijuana under the compassionate investigational new drug program for glaucoma. And they took this really complicated process, and they reduced it to a form that a doctor and a patient could really complete in an office visit. And about 300 people with AIDS applied for the compassionate investigational new drug program. And at that point in history, there were 39 people that were approved. And, the first Bush administration closed down the application process for the compassionate investigational new drug program. Rescinded the approved applications for all of the, the 39 people that had been approved and limited the program to the 13 people that had already received the supply of marijuana, the federal government actually supplies, it's a really convoluted process. So, what we're talking about here, is, there is a slang term, and it's been somewhat adopted by, by the gay community, faggot, that dates back to the, using homosexual, it means stick. And, faggot was a homosexual that was thrown on a fire to burn a witch. The concept being that there is nothing as vile as a burning homosexual. So we're talking about human practices that are just based on hatred. And this is really emblematic of that, and I want you to have your courage to champion these entrenched institutional hatreds, and I encourage you to pass this resolution.

Hales: Thanks very much. Charles. You're next. Or, Mary. Go ahead.

Mary Eng: Hi, council, my name is Mary Eng. I'm considering going by ransom my father's name to resonate with my bisexual identity. I have always felt sort of in between genders like Orlando from Virginia Woolf's time. With this, I want to thank you for the highly educational approach you take to this kind of issue. I appreciate the experts and the activists and your sensitivity towards this, and thank you personally for, seeing me there at the gay pride parade, I saw you and waved to you all. I'm very proud of that. And I want to thank the American Red Cross for having the courage to stand up to the FDA and demand modern science, as with lobotomy and other bizarre and unfortunate practices, we have to put outdated medical practices in the past. And on a personal level, I found out more about my friend's accident, which required a large transfusion, so transfusions definitely have a huge impact in my life, and I thank you for everything you do, and all the GLBT activists, and transgender activists, especially, who have so many hurdles to climb nationally and internationally. I am so honored to speak to you today, thank you.

Hales: Thank you. Good morning, Charles.

Charles Johnson: Charles Johnson, for the record. The only negative thing to say about this is that it didn't happen under the former administration our gay mayor. This should have been taken sooner, the policy of the is bad for public health, bad for public morality, and encourages dishonesty. It's a poor public policy, so it's interesting we're talking about it on September 11, not just the anniversary of the 2001 attacks but when our government's bad policy sent us off to do a coup in Chile where many people died under dictatorial regime. So we need to always, as Portlanders, speak up for good public policy. And the truth is that it the donors in a ridiculous moral situation where we now know that the government is enforcing is a policy based on bad science, so donors are tempted to be dishonest based on their arguably superior judgment. Especially we could talk about hemophiliacs. There are businesses in Portland and across the country which give financial gift incentive to people who donate. So, as to the safety of the blood supply, if somebody is destitute, and is going to donate plasma, which has the same restrictions as blood, the policy is subverted anyway. So I am glad that we are speaking up to rescind the policy that unfairly discriminates particularly against homosexual men and ignores the science about trends in HIB transmission. Thank you for taking this measure up.

September 11, 2013

Hales: Thank you. Thanks very much. Anyone else like to testify?

Joe Walsh: Good morning, my name is Joe Walsh, I represent individuals for justice, and I would like to congratulate all of you who give a positive vote on this. This is something that we preach a lot. This is called humanity. This is called extending the privilege of donating blood to our population that's been excluded for too long. I do have a question, though, that occurred to me as I was listening to you speak and also, the experts, is there a coordinated effort with the county and the congressional district? Are people on this issue? Are the county and the elected officials taking positions on this? Do we know any of that that?

Hales: Good question. We'll get you an answer to that question.

Walsh: Because we're going to testify tomorrow at the county, and I have no hesitation saying that, that the city is ahead of the county. Where are you? I'm not shy, but I was wondering, who is coordinating, who is interested in coordinating, and how do we do that?

Fritz: Let me respond to that, Mr. Walsh. Thank you for the point. After the passage of the resolution, the Council as a whole will be sending a letter to our congressional delegation, and to the FDA asking for repeal, and I welcome your asking the Council to follow Portland's lead in this, I think it is something that needs to get more and more jurisdictions onboard.

Walsh: It would really be nice to brag about guys.

Hales: We can do that. That would be appreciated. We can certainly transmit the resolution to the county as well so they have an example if they want to follow it.

Walsh: Sure. Okay, thank you.

Hales: Good suggestion, thank you.

Fritz: I expect Dr. Denny will also be talking with the elected officials of the county to encourage them to do what we just are about to do.

Hales: Great. Anyone else? If not, let's take a roll call on the resolution.

Saltzman: Well, I want to thank our ombudsman, Margie Sollinger and Commissioner Fritz for bringing this important issue to our attention. I think that like a lot of people, I was relatively unaware of this and, and the history around this. So this seems like, with the advances in technology, this seems like it's a policy that is archaic, and I hope that our resolution will help to encourage the food and drug administration to change its rules. Aye.

Novick: I also really appreciate Commissioner Fritz and the Ombudsman for bringing this to our attention and everybody who testified today. I think this is actually an opportunity to reflect on the progress that we have made in this country over the past 30 years and on a number of issues. I mean, 30 years ago, it would have been hard to imagine that the AIDS crisis would have been as controlled as it is now, and people who are infected can live as long as they are now. 30 years ago, it would have been hard to imagine the majority Americans at some point, support same sex marriage, and, 30 years ago, probably medical professionals wouldn't have dreamed that we have, we would have made such strides in blood safety. And now, it's an opportunity -- we do have this, this vestige of discrimination and the FDA rule and, I, actually think that although this may be a fairly symbolic gesture, it's a symbolic gesture that may very well bear fruit because, I would not be at all surprised if the president of the united states was not aware of this vestige of discrimination. And maybe there will be some coverage of this resolution that will bring this issue to the attention of some white house staffer who will mention it to the president and they will say, my god, I had no idea this still existed. And so, this strikes me as one example of a symbolic gesture that could help to have truly substantive effects. And I am very proud to vote Aye.

Fritz: I wore white today to remind myself that I was once a registered nurse. I am now retired and not entitled to practice but I get to play one on tv. And so, thank you to, to ombudsman sollinger and to Dr. Denny, Barbara McCullough Jones, Tash Shatz, Letty Martinez and Daphne Mathew for being here. I was invited to talk on camera about this yesterday and I declined because I didn't know everything that, everything that I now know. And like commissioner Saltzman, I was educated this

September 11, 2013

morning. I do want to respond to Mr. Johnson, who said that this should have been done under our gay mayor. That's correct. I should have done it under the previous administration. I should have done it earlier. We need straight allies in all of our, in the fight against discrimination against the gay and lesbian and transgender community. We each need to do our part and we need to remember that time is short, and we need to get things done. So, thank you to Tim Crail, and Jasmine Wadsworth on my staff for doing all the work that allowed me to put this before today. We do have broad support from the scientific community, and the current policy is medically and scientifically unwarranted. Why would we keep such a policy? Thank you for your support. Aye.

Fish: First I want to thank the ombudsman and Commissioner Fritz for their leadership in bringing this forward, and I particularly I want to thank Amanda who has consistent been our champion on health issues and on equity issues. And this is an issue health equity, so they come together beautifully. So thank you for your passion and advocacy. To Steve's point, 30 years ago, Barney Frank, a former congressman could not get married in his home district, could not serve in the military, and could not get top secret security clearance through the state department. 30 years later, barney is married to the love of his life, married in a ceremony in his home state. And McCarran-Walter Act has been repealed, so, the mere fact of your sexuality no longer disqualifies you from serving your country. And don't ask, don't tell has been repealed, so to your point, great progress. And we have talked about giving blood today. I was reflecting on the three things I do as a citizen that make me feel connected to the community. One is voting, one is serving on a jury and the third is giving blood. And the reason giving blood is important is that I hate to give blood. In fact, I once fainted on the table as the person was poking me looking for a vein because my veins don't pop up correctly. I am squeamish about blood. I sweat profusely. They make me stay an extra half-hour and drink the juices and eat all the sugars because I look like a ghost, and it's precisely because it's so painful and so awkward for me that I feel especially committed to doing it because I'm a universal donor and my blood happens to be a rare type. Meaning, a very small number of people in our population have my blood, and therefore, it matters more to people who, perhaps, but for getting my blood may not survive an operation or whatever. So, this is how we feel connected to our community, and to say that a whole group of citizens are disqualified from participating in this ritual, because of, perhaps, outdated science or prejudice or bias is unacceptable. So I really appreciate you bringing this forward and I wholeheartedly support your view that we should let facts and science, not discrimination, drive this decision-making. Thank you. Aye.

Hales: What a great piece of work, and what a great discussion here so thank you all for both bringing this forward, being able to respond to a citizen or an employee who says hey, what about, in such a thoughtful way. And to have this eloquent and wise testimony that we have had here today. This is really an excellent piece of work. And it happens, both of my siblings are scientists who their career working for the federal government. And, I think that they would be proud of us for making science the reason to do things. Like Dan, and like, I think a lot of us, I was shocked that this artifact still existed, and I bet Steve is right, I bet the president has no idea that this artifact of a different time when prejudice instead of science guided a decision, is still lurking around out there. So, I hope that our effort and in other cities' to raise this issue and to remember what Edmund Burke said, all that is necessary for the triumph of evil is for good people to do nothing. So, we're not doing nothing, we're doing something important, and I'm really proud of Portland. Aye. [gavel pounded]

Hales: Let's move for some less lofty stuff, but nevertheless, stuff we need to do today. Let's -- that's definitely a high point, thank you, Amanda. Regular agenda. Item 868.

Item 868.

Hales: This is a second reading but again, an FYI, this is us destroying drugs because we can when they give them to us for disposal. That's all that it is. Roll call on second reading.

Item 686 roll.

Saltzman: Aye. **Novick:** Aye. **Fritz:** Aye. **Fish:** Aye. **Hales:** Aye.

September 11, 2013

[gavel pounded]

Item 869.

Hales: Great. Commissioner Saltzman.

Saltzman: Well, we had an excellent hearing last week, and I believe that we're ready to take a vote and move forward on this important policy to require night clubs to have sprinklers. One item that did come up last week, and I wanted to address, was the fire marshall's notification letters sent out to the building owners of night clubs without sprinkler systems. As was clear to the council, the fire marshall believes that building owners are ultimately responsible for keeping their buildings safe and up to code, regardless of who their tenant is. And it was clear from the comments all of you that we believe this, too. But, of course, the real world can be messy. And we can easily envision a conflict between the property owner and the tenant on who is responsible for installing a sprinkler system. So in response to this, the fire marshall's office will be updating their administrative rules regarding citations to make clear that the property owner will be the party cited for violation if a nightclub is operating without a sprinkler system. But we want to be sure that all interested parties are in the loop, and, and therefore, we want to keep the requirement that both the tenant and the owner be notified of this new rule, and notified of any citations that are issued. And as I said last week, the fire marshall will work with any party that wants to come into compliance with this new fire code. So, I don't believe that any amendments or changes are necessary to the ordinance. And I believe we're ready to, to vote on this.

Hales: That's great, thanks for clarifying the administrative rules can address that issue. So, any further council discussion? Roll call, please.

Item 869 roll call.

Saltzman: I want to thank first of all, this is a very important step forward in life safety, and I want to thank our fire chief, Erin Janssens, our fire marshall, Nate Takara, and my staff, my fire staff person, Matt Grumm, for helping to craft this important policy, and get it through all the hurdles necessary for us to be able to vote on this today. And as I said, I believe that this is going to save lives. But, I think it's important to remember, particularly, it's poignant that we're voting on September 11, on this new requirement to put sprinklers in night clubs, because this will not only save the lives of people who work in night clubs, people who perform in night clubs, people who patronize night clubs. But, ultimately, and as I learned, as my three month's tenure as fire commissioner and as we know on September 11 how many firefighters gave their lives for this country, that this will save the lives of firefighters, too. Because their instincts are always to respond to the tragedy, and to go right in, and try to save lives. So by doing this today, we're saving, I guarantee, we're going to be saving lives in the future, and this is going to make Portland a safer environment for all of us. So, I'm very pleased to vote aye.

Novick: I want to thank marshall Takara and chief Janssens and matt grumm and commissioner Saltzman for bringing this forward. I think that this is critically important, it will save lives. I also want to take a moment to reflect on general concept of grandfather clauses. There's a tendency among politicians and regulators when you are adopting a new safety requirement, to say well, people doing business the same old way for a long time, we don't want to impose on them too much, so, we'll let them go. And, it's a generous impulse but also a dangerous impulse, because the fact I've been doing something dangerous for a long time doesn't make it less dangerous. And we see this on a variety of issues in our society. When the clean air act was first adopted and they imposed stringent requirements for pollution on coal plants, they said, we're going to grandfather in the old coal plants, they don't have to meet the pollution standards. And the assumption was that those coal plants would be obsolete or replaced within ten years. Well, actually, a lot of those plants are still operating, and EPA and the justice department get into arguments with the coal plants as to whether they have been modified so much [inaudible], they are subject to the new requirements, or that they continue to operate spewing out pollution. And it's the existence of the grandfather clause that has

September 11, 2013

created that situation. In this city, we have hundreds of unreinforced masonry buildings that do not meet current seismic standards. And, and it would be very expensive for the owners of the buildings to strengthen and survive an earthquake, but, so, we grandfathered them in, but, that exception could cost ultimately a lot of lives, and that's an issue that we need to take up. So, I think that whenever we adopt a new safety standard and we have the impulse to say, we're going to grandfather in people doing things the old way, we need to stop and think about the fact that our generous impulse is conflicting with the need for safety. So, I thank commissioner Saltzman very much for stepping up to the plate on this issue, and I'm pleased to vote aye.

Fritz: Thank you, commissioner Novick, that's a really important point and thank you, commissioner Saltzman, not only for bringing this forward, but for looking into the concerns that were raised last week and giving us a response. Chief Janssens, I appreciate your work on this as well in briefing me and answering all my questions both beforehand and at the hearing last week. This is an important step forward, and I believe we might want to expand it in the future, but, I definitely agree that we cannot have some of the tragic fires like the ones that were shown last week. Thank you. Aye.

Fish: I too want to thank the chief and her team and commissioner Saltzman and his team for bringing this forward. This is a hallmark of Dan's leadership. He heard about a problem, a loophole, which he referred to as a loophole last week. He directed his bureau to fix the problem. He expeditiously brought a common sense solution to Council. Got support, and there's been little if no opposition to this once all the facts got out in the public domain, and clearly, we're doing something today which advances the public health and safety. So, congratulations, Dan, and I am proud to support you today. Aye.

Hales: Agreed. Excellent work, Dan, and bureau, and community. Thank you all. Another reason to be proud of Portland, another great piece of work. So, how do you celebrate again and again that a bad thing did not happen? How will we remember this ordinance? Well, maybe this way. Flags outside are at half mast because there is a tragedy and we are both honored and required to remember a tragedy. But, there will be lots of days when the flags fly contentedly at the top of the mast with nothing to commemorate because a bad thing was avoided by this good work. Aye. [gavel pounded] nice work. And one more item.

Item 870.

Hales: Come on up.

Sharon Simrin, City Auditor's Office: Good morning. This ordinance is for sidewalk --

Hales: Put your name back in the record, though.

Simrin: I'm sorry. Sharon Simrin from the auditor's office. I thought you knew me.

Hales: The auditor punish you if you don't do that. [laughter]

Michael Zeller, Maintenance Operations: I am Michael Zeller from the sidewalks department, maintenance operations.

Hales: Thanks, Michael. Yes.

Simrin: This ordinance is for sidewalk repair for property, homeowner's property, that the city has performed. And any remonstrances that we had on this assessment have been called, sent back to the sidewalks for determination.

Hales: Ok, so you did receive some?

Simrin: We received six. Four from the same company and two from individual homeowners.

Zeller: They were pulled for assessment.

Simrin: Yeah.

Hales: Great, thank you. Questions for staff team? If any? Thank you very much. Is there anyone here, still here to testify about this? Obviously, we have the remonstrances that are, that are being handled. On this issue.

Moore-Love: We have natureboy, mark j. hofheins and ben.

September 11, 2013

Hales: Good morning.

Natureboy: Good morning. I am Natureboy. And I am homeless. As far as the sidewalk repairs thing, I'm starting an autonomous program, it's a non-monetary program for the homeless to empower them to do something for the community and give back to the community. And, I'm trying to start something, like a revolution for the homeless so that the perception of homelessness and people who don't have homes, are perceived as more than just people who are homeless. People capable of giving back. So, the program is called the homeless art project. So it's, you know, for me, I started the program about five days ago. And, and every single day, all day, I'm on call. And, and you will always see me with trash bags, around my belt loop, walking around picking stuff, microtrash, cigarette butts, all the way to recyclables, and divvying those up. And so, as a homeless person, the resources are kind of limited. Also, through my experience starting this program, you could probably hear in my voice, I'm kinda dealing with getting over a bit of a cold. Something that we could use because I am going to be acquiring up at volunteers. This is a volunteer thing, this is a non-monetary program. So, we are reliant upon sponsors and people to help us out. But, we don't need a lot. All we need is the tools to pick up the trash, which is trash bags, gloves, and masks. Because as you pick up trash, you bend over, and, you know, you are constantly inhaling the stuff. So, if we can get, you know, those masks, donations for somebody that we have had this morning, captain, I think, ajers, [spelling?] and he donated three rolls of trash bags to, two things of gloves for, for us, for sanitation. We don't have any masks and we want to make sure everybody who is going to be part of this movement is safe. And they are not breathing in that toxic air. So, anyways, I'm easy to find. I've been living across the street. I am an autonomous individual but have been with occupy movement. I'm from Fort Worth, Texas, and I've been here for there months. So, but, anyway.

Hales: Thank you. Thanks what, for what you are doing.

Natureboy: Appreciate it.

Hales: Good morning.

Benjamin H. Pickering: Good morning.

Pickering: Benjamin H. Pickering. The sidewalks ends where it begins but, sidewalks all over the world, pick a street, see what needs to be fixed and I see certain back roads and streets and still today, [inaudible] count for. I don't know, little gestures would be pretty cool. They got streets signs and everything I guess, people can have some sense of humor in that, some common sense of we're all humans and [inaudible] walk over to a garbage can, and [inaudible] and we have trash out here. But, I mean, what you were saying about the people? Yeah—

Hales: Would you finish telling us about this and then you guys might want to talk about it.

Pickering: We do enjoy the sidewalks they put in this world. I've been across the world and enjoyed several streets. They are taking a long time to, to talk to everybody that walked the streets and the sidewalks. But, I mean, where to start, to begin, I mean, sidewalks need to be fixed. I've sprained my ankle on a few different places. I used to walk on dirt roads, but, the sidewalks, there's people out there, I mean, these guys are good at everything. The sidewalks, they're sitting out there and they have a place, and they are enjoying it, too, but, I mean, it gives people something to do, you guys help on the sidewalks, these guys are out there. Give them something to do. And where do we start? Is it like going back and forth for me, is everybody just equal in this world? I mean, who is perfect and who is not. But, there's a lot of people all over, they enjoy the sidewalks, and trying to get sleep or, walk down the street. I mean, is it the ones that complain when people are walking down the street when someone is doing something wrong? Or is it someone who is enjoying the day walking down to get where they're going? There is a lot to be fixed, we could start with, with, you know, carry is onto everybody and greet everybody, the sidewalks, we live today, we walk on, we walk by, every day. Getting here, we pulled over and walked on the sidewalk, and I noticed a few things. Out of ordinary, a few different things, but, I mean, I give them congrats for everybody that

September 11, 2013

put in the sidewalks around the world and escaped the world with the sidewalks. He had a good point about the people, all about, you know, we wait until too it's late or give it something to run with. These people out here and they'd love to help. They got a heart of gold. They don't mind or enjoy being part of it. Give them something to be part of.

Hales: Thank you. Thanks.

Mike J. Hofheins: I need a moment. Computer crashed on me.

Hales: Ok.

Hofheins: Hopefully I saved it.

Hales: Well, maybe you can summarize what you were going to say.

Hofheins: It's better if I read it off, you know what I mean? If I have to come back to the issue, we can come back to the issue, if that's possible.

Hales: Actually, this one's on the calendar today, and that's it.

Hofheins: Yeah, I know, I mean, like temporary for the night. For the day, I mean. Right when I'm getting ready to present.

Hales: I'm sorry. Murphy's Law got you there.

Hofheins: Yeah.

Natureboy: Can I ask who I would probably approach out of the panel, as far as like resources and how to store--

Hales: Won't you come to my office and talk to Chad Stover about clean and safe. Yeah, chad. [inaudible] Just come up to my office and talk to chad.

Natureboy: Okay. What floor?

Hales: Third floor.

Hofheins: One of the points I can bring up while we're waiting is that what about, what do you think about possibly even employing some of us down there. To clean up. Since we're cleaning up anyway, you know what I'm saying, for one, it helps you guys. We're helping guys, but on top of that, it helps the situation where you guys can hire us to where we can, we can make money and get up off the streets.

Hales: There is some of that going on.

Hofheins: That's a beautiful idea.

Fritz: Central city concern has a program that does that, so you might want to contact them.

Hofheins: Do you know the name of the program?

Hales: The downtown clean and safe program. Central city concern does hire people. Recently, homeless folks, and working doing just that so I actually want to connect both of you with that program.

Hofheins: Alright. Or parks and recreation, I have a paralegal degree, so I am very well-knowledged.

Hales: So I suggest you both should come up and we'll connect you up with the concerned folks that run that program, but what you are trying to do I think will fit well with that.

Hofheins: Yeah, and on top of that, there are a lot of things.

Hales: And, let's not -- I'm sorry about the computer but let's have that conversation outside.

Hofheins: Not a problem, not a problem. I am going to present the points, every week I come before you and I will present the points between, before all you and they will always be e-mailed to you. I don't know if you had an opportunity to, to, to overview the U.S. supreme court rules, the ninth circuit court ruling I had presented to you as well. And, and as well, I can give an -- it has been a pain in my butt, but, well, by the way, today is my birthday, 11th-year anniversary, 18th birthday, September 11, you know, so I come before you. Yay. And here's the whole deal, I had some very good points on here, but, obviously it doesn't want to let me do it. One thing I'll address first-off is the anti-camping ordinance. Back in 2000 when Katz was in office. Actually, anti-camping was already ruled unconstitutional. But it was re-implemented, so, therefore, you know, it also specifies

September 11, 2013

the same things, etc. And I have also presented that with you guys. So you are aware. With that being said, that ordinance should not be on the books still. With it being unconstitutional, already, found by the county courts here, you know, so, therefore, you know, it's a very discriminative anyways for the states, bedding and giving sleeping bags in it, it's discriminatory, towards the transient class. Ok. And that's with the sidewalk issue. With the sidewalk issue, that's where we have, that that is our home, that's all that we have. And you know what I mean. Wherever we are able to lay our head, we are able to lay our head. And the U.S. Supreme Court already stated that you cannot criminalize homelessness.

Hales: So you are out of time.

Hofheins: I know.

Hales: Email what you have and come up to my office.

Hofheins: Most definitely. I will present this with chad, as well, because chad and I talk. But as far as that goes, I appreciate you informing me about that opportunity, and I will get on that. And yeah, you will enjoy it. I am sorry about this.

Hales: That's okay. Thank you for being here. Anyone else?

Fritz: I have one question for Sharon before we vote.

Hales: Come on back up.

Fritz: Thank you. You mentioned that, that those, those properties that you have had remonstrances have been drawn back to your office, is that reflected in the list that I have in the resolution?

Simrin: None of those will slow up on the exhibits. They are all pulled out of this assessment, and we send them back to the sidewalks, and they will make a determination. Whatever they decide, we will include them in the next assessment. Either nothing or if they reduce them, whatever they decide.

Fritz: And all those that you received are not in my packet, right?

Simrin: No, they are not. They are back to him.

Hales: Okay. Thanks for that clarification. Thanks, thank you both. That passes to the second reading.

Simrin: Thank you.

Hales: And we are adjourned. [gavel pounded] We're done for today. Good work. Good work, Amanda.

At 10:51 a.m., Council adjourned.