

**PORTLAND CITY COUNCIL AGENDA
City Hall - 1221 SW Fourth Avenue
WEDNESDAY, 9:30 AM, JULY 29, 2020**

Disposition:

Please note, City Hall is closed to the public due to the COVID-19 Pandemic.

Under Portland City Code and state law, the City Council is holding this meeting electronically. All members of council are attending remotely by video and teleconference, and the City has made several avenues available for the public to listen to the audio broadcast of this meeting.

The meeting is available to the public on the City's YouTube Channel, eGov PDX, www.portlandoregon.gov/video and Channel 30. The public can also provide written testimony to Council by emailing the Council Clerk at cctestimony@portlandoregon.gov.

The Council is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications. Thank you all for your patience, flexibility and understanding as we manage through this difficult situation to do the City's business.

Provide Public Testimony: City Council will hear public testimony on resolutions and ordinances (first readings only). Public testimony will be heard by electronic communication (internet connection or telephone). Please identify the agenda item(s) you want to testify on, and then visit the Council Clerk's agenda webpage to register, www.portlandoregon.gov/auditor/councilagenda. Provide your name, agenda item number(s), zip code, phone number and email address. Individuals have three minutes to testify unless otherwise stated at the meeting. Testimony is not taken on communications, reports, second readings, proclamations or presentations in accordance with Code 3.02.040 F. and G. **The deadline to sign up for the July 29, 2020 Council meetings is Tuesday, July 28, 2020 at 4:00 p.m.**

Email the Council Clerk at cctestimony@portlandoregon.gov with any questions.

TIMES CERTAIN

620 TIME CERTAIN: 9:45 AM – Proclaim July 26, 2020 to be Americans with Disabilities Act 30th Anniversary Day (Proclamation introduced by Mayor Wheeler) 15 minutes requested

No fiscal impact.

621 TIME CERTAIN: 10:00 AM – Amend Planning and Zoning Code to extend the expiration date for some land use approvals, maintain inclusionary housing rates outside the Central City and Gateway Plan Districts, and allow for virtual neighborhood contact meetings (Ordinance introduced by Mayor Wheeler; Second Reading Agenda 617; amend Title 33) 15 minutes requested

See below.

CONSENT AGENDA – NO DISCUSSION

Mayor Ted Wheeler

Office of Management and Finance

<p>622 Provide an exception to Human Resources Administrative Rule 6.03, Vacation, for employees required to furlough allowing for carryover of all vacation accruals earned by the end of the first pay period in January 2021 to the end of the first pay period in January 2022 (Ordinance)</p>	<p>See below</p>
<p>623 Provide an exception to Human Resources Administrative Rule 8.03, Hours of Work, Overtime Compensation & Management Leave for Fair Labor Standards Act Exempt Employees allowing for carryover of unused management leave to calendar year 2021 as a result of required furloughs for FLSA exempt employees (Ordinance)</p>	<p>This ordinance is not anticipated to have a significant financial impact on the City. Those receiving management leave are FLSA exempt employees and not entitled to overtime (OT). It is assumed that in most instances, a bureau who will need to backfill can do so with other FLSA exempt employees. If any additional costs due result from management leave carryover, the ordinance directs bureaus to manage those costs within existing current service level appropriation.</p>
<p>Commissioner Chloe Eudaly</p>	
<p>Bureau of Transportation</p>	
<p>*624 Authorize application to National Association of City Transportation Officials for a grant in the amount of \$25,000 to support response to COVID-19 through right-of-way transformation to support businesses in the Albina area in partnership with the Soul District Business Association, Self Enhancement Inc., and the Albina Vision Trust (Ordinance)</p>	<p>If awarded, the grant does not have a match requirement.</p>

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<p>625 Authorize application to Oregon Department of Transportation for a grant in the amount of \$5 million for the Safe Routes to School Competitive Infrastructure Grant Program (Ordinance)</p>	<p>If all three grants are funded, which PBOT states is unlikely, the total estimated cost to complete the plans are \$6,435,000 over roughly three years. The ODOT Grant program will pay up to an estimated \$5,000,000. The local match in the amount of \$1,435,000 will be provided by Fixing Our Streets Safe Routes to School funding, and depending on the location, SDC funding may be appropriate. If awarded, PBOT's FY 2021-22 and FY 2022-23 budgets would include any funding as a result of grant award(s), however, this would not impact the current fiscal year budget. Though PBOT is submitting three grant applications through this program, staff assume only one will be awarded.</p>
<p style="text-align: center;">Commissioner Amanda Fritz Water Bureau</p> <p>626 Authorize a contract with the lowest responsible bidder and provide payment for the construction of the Powell Butte Reservoir 1 Roof Upgrades Project at an estimated cost of \$5,140,000 (Ordinance)</p>	<p>This project is budgeted with the Water Bureau's FY 2020-21 Adopted Budget and Capital Improvement Plan.</p>
<p style="text-align: center;">Auditor Mary Hull Caballero</p> <p>627 Approve Council Minutes for January - April 2020 (Report)</p>	<p>No fiscal impact.</p>
<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Commissioner Chloe Eudaly Bureau of Transportation</p>	

<p>*628 Authorize Intergovernmental Agreement for Right of Way Services with Oregon Department of Transportation to define roles and responsibilities regarding the use of real property for construction of public improvements related to the Central Systemic Signals & Illuminations project (Ordinance) 15 minutes requested</p>	<p>This supplemental Right of Way Services Agreement outlines the Oregon Department of Transportation's obligations for acquiring the right-of-way necessary to construct the project with federal funds. This amendment does not change any financial obligations outlined in the associated grant for this project.</p>
<p>629 Vacate a portion of SW 3rd Ave south of SW Arthur St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10126) 15 minutes requested</p>	<p>The process for vacating streets is a cost recovery program which is typically paid for by the Petitioner. The bureau states it does not have a net impact on PBOT's budget.</p>
<p>*630 Authorize contract with Lyft, Inc. to operate, procure and install system components of a bike share system in an amount not to exceed \$11,300,000 (Previous Agenda 590) 15 minutes requested for items 630-631</p>	<p>See below.</p>
<p>*631 Authorize agreement with Nike, Inc. to extend its sponsorship of Portland's bike share system (Previous Agenda 591)</p>	<p>This ordinance renews and extends the City's current agreement with Nike for sponsorship of the BikeTown bikeshare system. The City initially partnered with Nike, a founding partner and title sponsor for BikeTown, in 2015. Under that agreement, Nike paid \$10 million over five years in sponsorship support invested into capital and operations, with daily operations of the bikeshare system managed by Motivate. The current agreement extends the sponsorship through September 2025. Under the terms of the agreement, Nike will continue to pay \$2 million annually (\$10 million over five years) to support bike share operations. Combined with user fees/memberships, this contribution supports the costs of operations (managed by Lyft over the new five year term).</p>

<u>WEDNESDAY, 2:00 PM, JULY 29, 2020</u>	
<p>632 TIME CERTAIN: 2:00 PM – Replace Title 13 Animals with Bees and Livestock to update the regulations for keeping bees and livestock (Ordinance introduced by Mayor Wheeler; replace Code Title 13) 90 minutes requested</p>	<p>See below.</p>
<p>633 TIME CERTAIN: 3:30 PM – Refer a Charter Amendment to voters at the November 3, 2020 General Election to authorize a new police oversight system (Resolution introduced by Commissioner Hardesty) 90 minutes requested</p>	<p>See below.</p>
<p><u>THURSDAY, 2:00 PM, JULY 30, 2020</u></p> <p>DUE TO LACK OF AGENDA THERE WILL BE NO THURSDAY 2:00 PM MEETING</p>	

621 Amend Planning and Zoning Code to extend the expiration date for some land use approvals, maintain inclusionary housing rates outside the Central City and Gateway Plan Districts, and allow for virtual neighborhood contact meeting

CBO Analysis

This Ordinance amends the City's Zoning code in several ways as a result of economic and social disruption impacting the development review process caused by the COVID-19 pandemic as part of the Expiration Date Extension Project. Proposed amendments include the following:

- Temporarily extend the expiration dates of land use reviews, land divisions, final plats, and the Con-Way Master Plan.
- Permanently extend the expiration of pre-application conferences from one year to two years.
- Temporarily extend the compliance period for nonconforming upgrades.
- Temporarily allow neighborhood contact meetings to be held virtually.
- Extend the currently lower inclusionary housing rates for areas of the city outside of the Central City and the Gateway Plan Districts that are set to increase on January 1, 2021 until January 1, 2024.

The bureau states the long-term impacts of this proposal are minimal as all of the proposed amendments are temporary in nature and include sunset dates, with the exception of the proposal to extend the expiration of pre-application conferences. The bureau does not expect the changes to result in changes to staffing levels. The bureau also states that the proposal supports the economic recovery of the city by allowing projects in the midst of the development review process that would otherwise be delayed or abandoned to continue to completion.

622 Provide an exception to Human Resources Administrative Rule 6.03, Vacation, for employees required to furlough allowing for carryover of all vacation accruals earned by the end of the first pay period in January 2021 to the end of the first pay period in January 2022 (Ordinance)

CBO Analysis

This ordinance authorizes the one-time exception to Human Resources Administrative Rule 6.03 to allow for the carryover of vacation accruals that exceed accrual limits earned by the end of the first pay period in January 2021 to be carried over to the end of the first pay period in January of 2022. This exemption is in response to cost saving measures taken due to the fiscal impact of COVID-19 which included furloughs for non-public safety represented staff and non-representative staff. Employees paid under \$29.55 hourly or \$61,463.99 annually, were not required to take furloughs. As such, this ordinance does not apply to

employees that were exempt from the furlough requirements.

Currently, HRAR 6.03, allows for vacation credits to be accrued up to a maximum of two year's earnings, or three years (dependent upon position) by the end of the first pay period in January of each calendar year. Hours in excess of an employee's 24-month vacation accrual, which are not used by the end of the first pay period in January of any year are no longer available for use. This action eliminates the potential loss of these vacation credits that exceed accrual limits over the maximum of one year. Employees must take their additional credits no later than the end of the first pay period of January 2022.

In practice, the productivity loss and the potential backfill or overtime costs that may result from employees using their vacation leave carryover are difficult to quantify. An analysis of vacation accrual data for the end of the pay period in January 2020 provides some insight, albeit imperfect, into the number of employees this exemption could impact. For example, if the one-year exemption was for the period January 2020 to January 2021, 758 non-public safety represented and non-represented employees within the compensation furlough requirements would have qualified for the exemption. Of those 758 staff, 136 or 17.9% are funded with General Fund resources. The remaining 82% or 622 employees are from non-General Fund bureaus.

The Bureau of Human Resources (BHR) provided a low, medium and high impact scenario analysis to estimate the potential overtime costs that may result from this exemption. Their analysis estimates additional overtime costs could increase between \$3.9 million (low) to \$8.1 million (high). CBO notes that the analysis assumes the vacation leave carryover exemption will trigger additional overtime for the highest overtime earners. However, this may overstate the potential cost as bureaus will be expected to manage extra overtime costs within their appropriation levels. Without additional appropriation, bureaus will need to ensure that coverage requirements are met in the most cost effective manner possible. CBO also notes that many of the top overtime-earners are also the same staff that would likely qualify for the vacation leave carryover exemption. Thus, depending on how bureaus manage coverage requirements, their absence could potentially reduce overtime costs.

Another impact of the ordinance is an increase in the City's liability from higher vacation payouts. According to HRAR 6.03 all vacation leave must be cashed out when an employee separates from City employment. It is difficult to determine the City's potential liability as a result of this ordinance as it's unknown how many staff will leave the City's employment during the one-year exemption period. To help determine the impact, BHR's analysis uses 2019 separations as a proxy to estimate the City's payout liability. Their analysis demonstrates that if the ordinance was in effect in 2019, the City would have assumed an additional \$1.2 million in payout liability.

Finally, while this ordinance will result in productivity loss and additional liability for vacation payouts, it directs bureaus to "manage staffing coverage requirements in order to minimize additional costs that may result from Vacation Leave carryover *and manage those costs within existing current service level appropriation.*"

632 Replace Title 13 Animals with Bees and Livestock to update the regulations for keeping bees and livestock

CBO Analysis

This Ordinance replaces Portland Title 13, Animals and renames the code Title 13, Bees and Livestock. The updated Title 13 will allow Portland residents to keep bees and livestock in an urban environment under certain circumstances and replaces the current permit process to provide more certainty and transparency for residents and streamlines the implementation of the code to reduce costs and administrative burdens to the public and the City. Previously, Multnomah County administered the City's Title 13, Animals code, but in March 2018, the Bureau of Planning and Sustainability (BPS) temporarily took over the program while it worked to update the Title 13 code, develop administrative rules, and identify an appropriate long-term code administrator. The bureau expects this work to be completed with an established administrator by spring 2021. There are no additional fiscal impacts as a result of this Ordinance. When BPS temporarily absorbed these functions in 2018, the ongoing Special Appropriation resources the City paid Multnomah County Vector Control was transferred to BPS to cover staffing needs, which totals approximately \$60,000. It is anticipated that once the code update work is complete the cost of enforcement activities will not exceed the existing ongoing Special Appropriations budget allocation.

633 Refer a Charter Amendment to voters at the November 3, 2020 General Election to authorize a new

police oversight system (Resolution introduced by Commissioner Hardesty)

This resolution would refer an amendment to the City of Portland Charter to voters on November 3rd, 2020. The Charter amendment would establish a new structure and approach to police oversight and accountability. The Charter change would establish a Police Oversight Board comprised of members of the public and appointed by City Council, with authority and investigatory powers outlined in Exhibit A. The Board would be staffed by a Director and other professional staff, and incur costs for office space and other operational needs. Exhibit A establishes that the budget for this police oversight function would be set at no less than 5% of the Police Bureau's operating budget; at present, this equates to approximately \$11.3 million.

There is no immediate fiscal impact to referring the Charter change to voters, but resources would need to be identified to fund the Board if passed by voters. In the event that the FY 2021-22 General Fund forecast does not identify sufficient new ongoing resources to fund a Police Oversight Board at \$11.3 million annually, Council could determine to partially fund the Police Oversight Board from ending other existing functions that may be superseded by the Charter change (i.e. Independent Police Review Board, or potentially some internal Police Bureau accountability functions). Alternatively, Council could direct General Fund bureaus to take budget reductions in order to reallocate those resources to fund a Police Oversight Board.