



CITY OF

**PORTLAND, OREGON**

OFFICE OF NEIGHBORHOOD INVOLVEMENT

**AMANDA FRITZ, COMMISSIONER**

Amalia Alarcón de Morris, Bureau Director

**Noise Control Program**

1221 SW 4th Avenue, Room 110

Portland, Oregon 97204

*Promoting a culture of civic engagement*

## **FINDINGS AND DECISION OF THE NOISE REVIEW BOARD**

APPLICANT: BUREAU OF ENVIRONMENTAL SERVICES \*SUSAN HJORTEN\*

REQUEST: ONE YEAR VARIANCE FOR SEWER REPAIR

VARIANCE NUMBER: 15-221973-000-00-NV

DECIDED: NOVEMBER 12, 2015

**DECISION: APPROVED WITH CONDITIONS**

### **BACKGROUND:**

Title 18 establishes sound levels based on the zones of both the source and receivers of noise. Events that produce noise above permitted levels may be considered for variance from the code. The Noise Review Board is charged by code to review and act upon some of these applications. The review must consider the physical characteristics; times & duration of the emitted sound; the geography, zone and population density of the affected area; whether the public health, safety or welfare is impacted; whether the sound source predates the receiver(s); and whether compliance with the standard would produce hardship without equal or greater benefit to the public. The code does not preclude review of other factors, nor does it specify the weight to be given to each criterion.

### **REQUEST:**

Susan Hjorten, representing Bureau of Environmental Services requesting a noise variance for the Tabor Sewer Repair Project. The noise variance is for sewer repair work taking place between February 1, 2016 through January 31, 2017 between the hours of 6:00 pm and 7:00 am in the intersection of NE Glisan and 57<sup>th</sup> Ave., and in the intersection of E Burnside and 50<sup>th</sup> Ave. and will require 9 nights of variance work during that time. The work will consist of trench cutting and open trench repair work to replace aging sewers.

### **FINDINGS:**

- A. The public's health, welfare and safety are not affected by the anticipated noise levels, except possible temporary interference with sleep at later hours and for closer-in properties.
- B. The sound source does not predate receivers.

- C. The last criterion in reviewing Noise Variances speaks to a sort of “balancing test”, in which compliance/non-compliance is measured against the “public good.” Will the denying of this application produce hardship without equal or greater benefit to the public? Although “benefit” usually refers to economic gain, the Board also includes the pleasure obtained from the viewing of an event, the fostering of interest in an activity, or the pride in one’s city, which occurs via national exposure. In the present case the event is not only a well recognized community event, per se, but it also contributes to the national exposure of the City of Portland. The Noise Review Board finds that denying this event will not benefit the public good.

**DECISION:**

**Motion was made by Julie Greb to grant a variance for Susan Hjorten, representing BES, with the conditions below. Melissa Stewart seconded the motion. The motion passed unanimously 4-0. ( Board member Kerrie Standlee was absent).**

**The Variance is approved with the following conditions:**

- Noise variance permit shall run from December 1, 2015 through June 31, 2017.
- Varianced work is to consist of 5 days at 57<sup>th</sup> & NE Glisan and 4 days at NE 47<sup>th</sup> & Burnside.
- The applicant (BES) is to coordinate with the Noise Control Office to get noise readings.
- .From 6:00 p.m. until 10:00 p.m. the applicant will be required to use "smart alarm" back up beepers instead of a standard reverse alarm for all equipment activity.
- From 10:00 p.m. until 7:00a.m., the applicant is required to disconnect the backup alarms and spotters will be used to safely back up vehicles.
- Saw cutting shall be performed during daytime allowable work hours. If saw cutting is required during night work it shall be done prior to midnight. Saw cutting taking place between 10:00 p.m. and midnight shall include portable sound barriers being utilized to decrease the noise level to nearby buildings.
- The applicant is required to use direct connection to power whenever possible. Use of gasoline or diesel generators or other stationary equipment will be placed away from residential neighbors when possible, and at all times isolated from any residential neighbors with the safe use of a 1/2 inch plywood enclosure that does not impact the need of the unit to be properly ventilated.
- Notice to be mailed and emailed two weeks prior to start of work to a two block radius of the work site. Notice shall include nature of work, anticipated noise sources and a contact phone number for a person on site to explain the work and possibly mitigate the issue.
- Noise office is to be notified once a staging area has been chosen for the project.
- BES Inspector is to be onsite during variance hours with the phone number publicized.
- The applicant will send complaint reports along with a complaint log and details of how the problem was resolved to the City of Portland Noise Control Officer. These logs can be emailed to [noise@portlandoregon.gov](mailto:noise@portlandoregon.gov).
- The applicant shall prepare to develop a noise mitigation plan with the Noise Control Office should complaints arise.

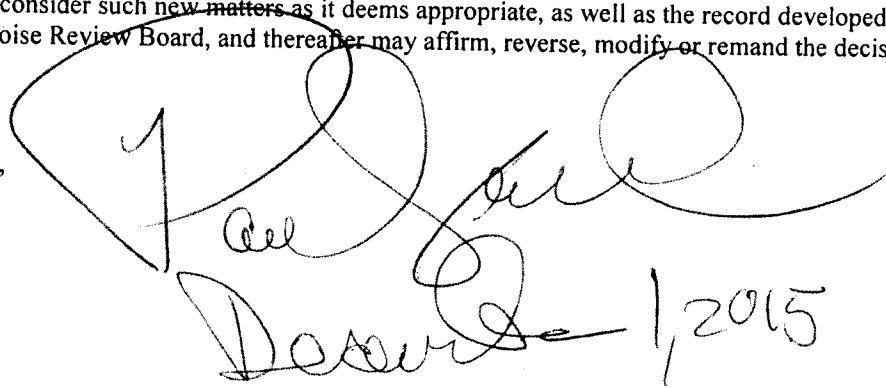
- The noise variance will be reviewed upon receipt of complaints. If complaints are filed, the Noise Control Officer may modify the variance as needed to resolve community noise disturbances.
- The applicant will notify the Noise Control Officer by the next morning if the variance was needed to work outside the permitted construction hours. The applicant will keep a running tally of variance days used. This log shall be made available to the Noise Control Office upon request.

**The applicant understands that this variance is subject to review upon complaint.**

**This decision becomes effective on November 12, 2015**

APPEAL PROCEDURES: PCC Section 18.14.020 (i) states that "A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows: (1) A variance decision may be appealed by the applicant, his legal representative, or by any person who has submitted oral or written testimony on the application. (2) Notice of intent to appeal shall be submitted in writing to the City Auditor's Office within 10 day of the effective date of the decision. The notice shall identify the decision that is being appealed, and shall include the appellant's name, address and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including alleged misapplication of City Codes. (3) Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the time of hearing, the City Council may consider such new matters as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision".

Paul van Orden,  
for the Noise Review Board,  
City of Portland



The image shows a handwritten signature in black ink that reads "Paul van Orden". Below the signature, the date "1/2015" is written. The signature is written in a cursive style and is enclosed within a large, hand-drawn oval.