

The Oregonian

Mayor Charlie Hales, Commissioner Steve Novick host street fee town hall Tuesday morning: Portland City Hall Roundup

By Andrew Theen
June 24, 2014

Attention early birds: Portland Mayor Charlie Hales and Commissioner Steve Novick are hosting another street fee town hall Tuesday morning.

Tuesday's meeting starts at 8 a.m. at the Oregon Convention Center in Ballroom 255, 777 N.E. Martin Luther King Jr. Blvd.

The town hall is specifically intended to discuss what the street fee would mean for businesses, nonprofits and other institutions. Wednesday night, city transportation leaders will host another meeting for residents. That meeting starts at 6:30 p.m. at Kaiser Permanente's Town Hall, 3704 N Interstate Ave.

The two town halls offer the first public opportunity for community members to face Hales and Novick and ask questions since the politicians put their street fee proposal on the back burner in the wake of a nearly six hour public hearing earlier this month.

Portland officials held similar town halls earlier this year.

City of Portland, DOJ suggest only city compliance officer provide annual updates to court on police reforms

By Maxine Bernstein
June 24, 2014

Three months ago, a federal judge made it clear that he wanted the city of Portland and federal Justice officials to return to his court annually to update him on the progress of police reforms mandated as part of a negotiated settlement.

The city and police union balked, delaying the judge's acceptance of the settlement.

Now, city lawyers, attorneys for the U.S. Department of Justice and the Portland police union have submitted an alternative proposal.

They prefer not to appear before the judge annually, and instead suggest that the compliance officer/community liaison (COCL) to be hired by the city report to the federal judge each year on the status of the reforms.

The compliance officer, they recommend, can provide updates to the judge and describe "any obstacles or impediments" that stand in the way of the reforms. But the court could not use the report to alter the settlement agreement in any way, or order the parties to take any particular actions.

"The appearance by the COCL is intended to be an opportunity for the Court to satisfy its need for information about the status of compliance and not subject to any adversarial process," the recommendation says.

But under their proposal, the city, federal prosecutors, and representatives from the Portland police union or Albina Ministerial Alliance "will not participate in the exchange between the Court and the COCL, submit briefing or questions, engage in argument or make presentations to the Court."

The Albina Ministerial Alliance did not sign off on the latest proposal, and submitted a legal brief opposing it.

The court's involvement stems from a Justice Department investigation in 2012 that found Portland police engaged in a pattern or practice of excessive force against people with mental illness or perceived to have mental illness. The investigation also found that police use of stun guns was unjustified and excessive at times. A negotiated agreement calls for changes to Portland policies, training and oversight.

Federal and city officials are seeking the judge's acceptance of the agreement without a trial.

The parties to the case have until the end of today to submit legal briefs on the latest proposal or the judge's initial request, and responses by July 2. U.S. District Court Judge Michael H. Simon said he won't seek any additional briefs or oral arguments beyond that date. As of July 3, he'll assess whether or not to accept the settlement agreement and under what circumstances.

The Albina Ministerial Alliance, in a separate court brief filed Friday, urged Simon to order annual hearings in his courtroom that would require the participation of all parties to the case.

"A neutral, public hearing to answer questions on the status of compliance is essential to the community's faith in, and hence the public legitimacy of, this very process," wrote J.Ashlee Albies and Shauna Curphey, attorneys for the alliance. "This system of checks and balances, which the Court recognized as central to a working democracy, is a measured and appropriate approach to ensure the Court of the fairness, adequacy, and reasonableness of the proposed settlement agreement."

In March, Simon told Portland city attorneys and federal justice officials that's he not likely to approve their negotiated settlement on police reforms without requiring annual status hearings in his court.

In April, the parties to the case returned to the judge and offered an alternative to his idea: annual hearings before Portland's City Council. The judge quickly shot that idea down, saying that would be insufficient.

Under the parties' latest proposal, the compliance officers' quarterly reports would be presented to the court, but the city of Portland would not create any additional reports for court review unless federal Justice officials pursue an "enforcement action" or finding of "noncompliance" against the city.

The city has not filled the compliance officer position. But the proposal submitted to Simon says the person will "have expertise in police practices, community engagement and crisis intervention methods."

The settlement agreement requires that this position be independent of any city office or the police bureau and responsive to the City Council, the public and the federal government.

The city compliance officer's quarterly reports would be reviewed by a Community Oversight and Advisory Board and be presented in public town hall-type meetings.

"Having the COCL appear annually and share information with the Court on the status of the City's compliance would keep the Court timely informed of the progress of implementation, any obstacles or impediments to achieving substantial compliance, and a broad range of public sentiment regarding implementation," wrote attorneys for the city, federal Justice Department and police union in their joint proposal.

Under the latest proposal, the city, federal Justice officials and the police union ask the court to approve the settlement agreement, and "conditionally dismiss" the federal complaint against the city by placing it on the court's inactive docket. The court would retain authority to enforce the agreement, hold annual conferences on the status of reforms with the city compliance officer and dismiss the complaint once the reforms are adequately adopted.

Portland Development Commission to offer Michael Wright up to \$1.5 million to buy Right 2 Dream Too site

*By Andrew Theen
June 23, 2014*

On Wednesday the Portland Development Commission's board will consider signing off on a plan to buy Michael Wright's property at the base of the Chinatown Gate in a deal worth up to \$1.5 million.

The PDC publicly expressed interest in buying Wright's property, at the foot of the Chinatown gate on West Burnside Street and Northwest Fourth Avenue, as early as last fall and has long viewed the land as vital to Old Town Chinatown's future.

Wright owns the 7,762-square-foot lot with several business partners. The Right 2 Dream Too homeless community has called the lot home since Oct. 2011, when Wright allowed the group to set up tents on the property.

The deal also includes a provision that would open the door for Right 2 Dream Too to remain in Old Town Chinatown until late 2016 or early 2017, four months after the City Council authorized directing \$846,000 to help fund the entrenched community a new home as soon as possible.

According to the PDC board documents, the \$1.2 million sales price is based on a property appraisal commissioned by the city last September. Earlier this year, Wright said the \$1.2 million figure was "a little low." Wright couldn't be reached immediately for comment on this story.

The additional 30-month "option period" would effectively pay Wright \$10,000 per month, allowing the urban renewal agency to research potential development options for the oddly shaped parcel. Uhlman said the delay allows PDC to be "aggressive and creative" in figuring out the best development for the property.

Shawn Uhlman, PDC spokesman, said the 30-month waiting period, which could garner another \$300,000 in costs, "hopefully provides sufficient time for all of the parties involved in that to work on a relocation plan."

Officials expect to present City Council with the latest development plan for the gritty Old Town Chinatown neighborhood later this year.

Uhlman said the district is already moving forward. "It speaks to really the momentum that we're starting to see in Old Town Chinatown, not just at that location."

Commissioner Amanda Fritz called the deal a good thing for the city and Right 2 Dream Too, while also providing "certainty for Michael Wright." Wright had previously talked of charging the homeless community a monthly rent to help pay for his property taxes on the land.

Dana Haynes, Mayor Charlie Hales' spokesman, said the deal is the next chapter in the R2D2 saga. "If this deal means we're effectively paying their rent for them to stay for a while," Haynes said of R2D2, "That's not a bad deal."

Fritz, who previously proposed relocating the homeless community to a then-city owned parking lot underneath a Broadway Bridge onramp in September, said the search for a new home -- be it land or a building -- is difficult.

"We're still looking. It turns out that it's obviously a very hot real estate market," Fritz said.

Hales also tried to find the homeless group a new home, but a \$150,000 proposal to rent a vacant building on Northwest Hoyt Street fell through in January.

In February, the Portland City Council approved a complex transaction with developer Homer Williams that sold the Pearl District parking lot to Williams for \$142,000 and directed another \$846,000 from the deal to help relocate the homeless group.

So far that hasn't been an easy task.

Despite the city's effort to compile a list of 21 buildings and vacant sites, all the options fell through and the homeless group remained on Wright's property.

A year ago after taking over the Bureau of Development Services, Fritz said finding a new home for the homeless group was a top priority. Although she helped settle a lawsuit against the city filed by Wright and R2D2, she hasn't found a new location for the group. "I'm discouraged that it's still such a challenge to find affordable housing," she said.

Wright's property has been vacant since 2008 when Wright's business Cindy's Adult Bookstore was demolished. Wright and former-commissioner Randy Leonard clashed over building and fire safety codes prior to the building's demolition.

Portland considers \$19,000-plus settlement with Pambiche for water leak: Portland City Hall Roundup

*By Brad Schmidt
June 23, 2014*

Portland's premier Cuban restaurant, Pambiche, is slated to receive more than \$19,000 from the city of Portland to end the threat of a lawsuit.

The settlement comes after water from an abandoned underground city water pipe regularly leaked into the restaurant's basement, beginning in 2013 and continuing through February 2014.

The water interfered with food storage and restaurant operations, prompting the restaurant and building owner, John Connell Maribona, to notify the city of his intent to sue.

On Wednesday, the City Council will be asked to approve a \$19,282.50 settlement to avoid a lawsuit and release the city of liability.

Portland's risk management division found that the city could be found liable for the problem. The Water Bureau discovered that an abandoned service line corroded and failed, with water leaking into the Pambiche building, at 2807 N.E. Glisan St.

"The Water Bureau has now modified its procedures for disabling this type of abandoned service line, so that it is terminated as the main, rather than at the meter, to prevent the type of leakage and damages that occurred in this case," officials wrote in documents submitted to the City Council for approval.

Neither Maribona nor the city immediately responded to messages Monday morning.

Money for the settlement comes from the city's Insurance and Claims Fund, which began the fiscal year with a \$24.6 million contingency.

Portland must do its homework on how to fairly spread the street maintenance burden: Editorial Agenda 2014

*By The Oregonian Editorial Board
June 23, 2014*

The hullabaloo that erupted at City Hall as a transportation maintenance fee sped toward adoption will get some much-needed unpacking on Tuesday as Portland Mayor Charlie Hales and Commissioner Steve Novick conduct a hearing for business owners that starts at 8 a.m. at the Oregon Convention Center. There should be no shortage of interest – hence the large venue – as the fee proposal was shelved to hear from folks who might help parse the issue of fairness in deciding who pays how much. What nobody disputed then or now is that Portland roadways need repair and that funding to conduct maintenance has fallen behind.

From the outset, however, residents and business owners alike disagreed on whether roadways should be repaired with money derived from a use-based fee or a citywide tax whose assessment might alter the distribution and degree of the burden. And The Oregonian's Andrew Theen reported on Monday that the proposed use-based street maintenance fee – about \$12 a month per household but hundreds of dollars to thousands of dollars a month to some businesses – was based on data having little or nothing to do with Portland traffic flows or travel habits.

The real impact Portland businesses have upon the transportation system is knowable. It must be taken into account in making street fees fair.

Novick and his staff had employed the Institute of Transportation Engineers Trip Generation Manual, a widely circulated off-the-shelf guide for cities and developers to forecast how much traffic volumes would likely increase by a proposed new development. That's hardly the same, however, as knowing precisely how many trips are generated by a tiny coffee shop or large grocery store in Portland for the purposes of

gauging impact upon the transportation system and equitable fee assessment. Meanwhile, the manual's historical reliance on suburban data from multiple venues nationally may skew a rather generic picture of estimated urban transit. As Brian Taylor, director of the Institute of Transportation Studies at UCLA, told Theen: "Oregon could be basing its data on Florida, or Texas, or Arizona."

Kelly Clifton, a professor of civil and environmental engineering at Portland State University and quoted by Theen, may have a solution as City Hall struggles to get a street fee or another funding mechanism right. Reached by email on Monday in Amsterdam, she wrote to The Oregonian's editorial board that the manual employed by Novick and his staff "cannot account for all trips generated by an establishment" and that her crew at PSU had devised a methodology for doing so. "There is an opportunity to provide relevant data for businesses that reflect their actual transportation burden on the system based on data from Portland," she wrote. "While this is not a small task, the information collected would not only benefit street utility fee implementation but also provide better information for assessing transportation system development charges or impact fees that developers are assessed...."

The key point here is that the right Portland information is knowable – if, for immediate purposes this year, City Hall decides to pursue a use-based transportation maintenance fee. Alternatively, Portland might opt to avoid such fee – likely a permanent assessment from City Hall, however progressive it is considered to be – and instead eye a temporary and renewable funding mechanism such as a bond. But then it might, as Austin, Tex. does successfully, embrace both: charge a fee and ask voters from time to time for more money through bonding.

Either way, underwriting street maintenance needs to be transparent and fair: that is, beyond second-guessing by individuals or businesses and without a whiff of money-grabbing. Taxpayers – or fee-payers – need to know that City Hall is interested only in fixing and maintaining aging infrastructure and that any new revenue source it creates can be described as fair and necessary.

The Portland Tribune

City seeing tainted water more often

*By Jim Redden
June 24, 2014*

More contaminants have been found in Portland's drinking water in recent years, and city officials don't know why.

Water Bureau Director David Shaff thinks the increase may be related to a new, more sensitive testing method adopted by the city in 2007, but he cannot be certain.

Shaff says the bureau is taking several steps to improve water quality, but it remains to be seen whether they will be effective. The trend may not be reversed until all of the bureau's open water reservoirs are replaced with sealed storage tanks — a project that is under way — but that is still years away.

The most highly publicized incidents have been the positive E. coli bacteria findings that resulted in three boil water notices in November 2009, July 2012 and May 2014. Despite the alarming nature of the notices, Shaff says there is no proof Portland's water was dangerous to drink during the alerts.

"The Multnomah County Health Department received more phone calls than usual immediately after the (May 2014) boil water notice, but has not detected any increase in confirmed gastrointestinal illness," Shaff says.

The same was true of the notices in 2009 and 2012.

E. coli was detected in both original and follow-up tests in 2009 and 2012, triggering the notices for west-side customers. The 2009 notice was the first one in Portland history.

Last month's notice for all customers was triggered after E. coli was detected at three different locations on three consecutive days. It was ordered by the Oregon Health Authority and lifted after all of the follow-up tests came back negative for E. coli.

But E. coli is not the only bacteria being found in the water supply.

According to the Oregon Health Authority, total coliforms are not considered harmful. They are an “indicator organism” whose presence suggests that other microbiological contamination could be in the water, including some that could make people sick — including babies, the elderly and people with compromised immune systems.

The U.S Environmental Protection Agency has required testing for total coliforms since 1974. The water bureau says that since about 2009, total coliforms also have been detected five or six times a year, an increase from previous years.

The most recent positive coliform sample was taken on Thursday, June 5. Because follow-up tests came back negative, the bureau did not have to notify anyone. But in September 2013, the bureau was required to send letters to many west-side customers telling them that coliform bacteria had repeatedly been found in their drinking water.

No contamination source

Most of the time, the Water Bureau has been unable to confirm the source of the different kinds of bacteria.

After May’s boil water alert, two dead birds were found in Reservoir 5 on Mount Tabor. But E. coli also had been detected in Reservoir 1 on Mount Tabor, where no obvious source was found. E coli also was detected at a testing station at Southeast Salmon Street and Second Avenue, downstream from both reservoirs.

The sources of the contamination that triggered the boil water alerts in 2009 and 2012 were never found. Although E. coli was detected in Reservoir 3 in both of those cases, no dead animals or other obvious source was identified.

The source of the coliform bacteria in the west-side water supply in 2013 was never found, either. That part of the system is served by Reservoir 3 in Washington Park. No obvious source of contamination was found there at the time.

The situation is puzzling because Portland has not changed the source of its water or altered its treatment procedures since 2009. The Bull Run Reservoir is still the primary source of water, supplemented by the groundwater system along the Columbia River when it runs low near the end of each summer. And all of the open reservoirs are still being drained and cleaned every six months. Chlorine is still added to the water at several locations to kill contaminants such as bacteria. The amount recently was increased 14 percent in response to warmer weather.

“Our basic treatment has not changed, other than that we increased our chlorine dose. Our basic distribution system operations have not changed — in fact, we have taken some of our open reservoirs off line — and our sampling has not significantly changed since the start of the total coliform rule in 1990,” Shaff says.

The biggest change in recent years has been the kind of test used to detect coliform and E. coli bacteria. Until 2007, the bureau collected water samples in membranes that were sent to a laboratory to be cultured and examined. But since then, the bureau has switched to a test called Colilert-18, which claims to be quicker and more accurate.

Although bureau officials cannot be sure, they say the current test may do a better job of detecting contamination in the water that has always been there. But there is no way to know for sure.

“The Colilert test could be more sensitive to coliforms in our water than our previous analytical method. Membrane filtration is a more subjective test, requiring an analyst to look under the microscope at bacterial colonies, than the Colilert test, which looks for a change in color. Some tests might be better at detecting some total coliforms than other tests,” Shaff says.

Replacement water tanks

According to Shaff, the bureau is taking several steps to reduce the contaminants being found in the water.

"The Water Bureau has evaluated the situation and implemented several operational practices to improve water quality. This includes taking excess storage off line, deep cycling tanks, changing pumping operations, expanding its unidirectional flushing program and increasing water-quality monitoring," Shaff says.

Bureau officials say the city's five open reservoirs in Mount Tabor and Washington parks may be responsible for some, if not all, of the contamination. They are open to both people and animals, potential sources of coliform and E. coli bacteria. E. coli has been found in two of them during the past five years.

City officials have proposed replacing the open reservoirs with closed storage tanks for many years. Some neighborhood activists have adamantly opposed the idea, saying there is no proof anyone has ever become ill drinking Portland's water. Now, after years of controversy, the water bureau is moving forward with plans to decommission and replace the open reservoirs. Projects estimated at around \$285 million are either under construction or scheduled to begin.

A replacement 70 million-gallon underground storage tank is under construction at Powell Butte, where two covered reservoirs that can hold 50 million gallons of water already exist. After the new one is finished, the Mount Tabor Park reservoirs are expected to be taken off line starting in spring 2015.

In addition, a 10 million-gallon closed reservoir at Kelly Butte is scheduled to be replaced with a 25 million-gallon one by the end of 2015. And a new 15 million-gallon storage tank is scheduled to be built in the footprint of a reservoir in Washington Park that is empty. When it is finished, the remaining 16.4 million-gallon open reservoir there will be disconnected, possibly in late 2019.

Water bureau officials are hopeful that replacing the open reservoirs will reduce the frequency of the positive bacteria findings in the city's water system, but they will not know for sure until after it happens.

City strikes deal to buy Chinatown Gate site used for homeless camp

*By Steve Law
June 23, 2014*

The Portland Development Commission will consider a deal on Wednesday to buy the site next to the Chinatown Gate occupied by a homeless encampment for \$1.2 million.

The deal provides up to 30 months to relocate the Right to Dream Too homeless camp on the property.

Under terms of the deal, PDC would pay Michael Wright and other owners \$10,000 a month in the interim, for a possible city expenditure of \$1.5 million.

The 7,762-square-foot parcel is located on the northeast corner of West Burnside and Northwest Fourth Avenue.

Willamette Week

Portland's Urban Renewal Agency Has a Deal in Place to Purchase Right 2 Dream Too's Old Town Lot

*By Denis C. Theriault
June 23, 2014*

Another looming shoe seems ready to drop in the long-running saga over Right 2 Dream Too's quest to trade its land on NW 4th and Burnside for a more permanent home.

According to city documents (pdf) obtained by the Mercury, the Portland Development Commission will vote as soon as this Wednesday on a tentative deal to purchase the rest area's site from its current landlords, a group led by longtime city foil and adult businessman Michael Wright. The negotiated price is \$1.2 million—about what an appraisal of the land found last fall, when sales talks suddenly got hot.

The deal, as listed in documents laying out the proposed sale, also directly addresses the status of Right 2 Dream Too, a rest area/tent shelter and community for advocates for the homeless. The PDC will wait to find a new home for R2DToo—paying Wright an additional \$300,000, based on \$10,000 a month for up to 30 months, before officially closing the sale. The expectation is Wright will negotiate with R2DToo and "other interested parties," ostensibly including Commissioner Amanda Fritz and Mayor Charlie Hales.

The Property is currently occupied by the Right-to-Dream-Too camp (R2D2). There have been active conversations between the City of Portland (City) and R2D2, including an action by the Portland City Council in February 2014 approving a settlement deal which directed \$846,000 to R2D2 to help them find a new and more permanent home. The PDC Board of Commissioners (Board) took action on February 12, 2014, authorizing the execution of a PSA with Pearl Hotel Investors, LLC, for the conveyance of Station Place Lot 7 contingent upon that separate City agreement referenced above. The contemplated transaction includes a 30 month option period designed to allow for PDC to conduct due diligence on the Property, provide PDC time to evaluate development options prior to taking title, and to provide time for the Owners, R2D2, and other partners and stakeholders to identify a new home for R2D2.

But from there it gets tricky. Wright will have to give back that \$300,000 if the 30 months expire and R2DToo is still on the land, giving him some motivation to help move the rest area. But if that happens, the PDC might agree to continue delaying the sale or cancel the agreement outright. Right 2 Dream Too has \$846,000 available—thanks to a deal with Pearl District developers who didn't want them moving beneath a Broadway Bridge off-ramp—to eventually find a new home.

A message left with Wright has not been returned. Wright used to run an adult bookstore on the land, but it was torn down amid a code fight with former City Commissioner Randy Leonard. He initially hosted Right 2 Dream Too to poke at city hall.

The agreement is seen as a linchpin in the PDC's and Hales' efforts to promote Old Town as a destination for tech businesses and workforce housing—and build up the area's many, many vacant lots. PDC says it will take the 30 months to ponder a good use for the property, potentially marquee location on one of Portland's busiest streets.